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ABSTRACT

Focusing on the Library Awareness Program, these two congressional hearings scrutinize the efforts of the Federal Bureau of Investigation (FBI) to collect counterintelligence data from librarians regarding their patrons. Two examples of proposed legislation to address the question of intellectual privacy and confidentiality are included. Testimony and prepared statements are featured from the following witnesses: (1) Duane Webster, Association of Research Libraries; (2) C. James Schmidt, American Library Association; (3) David Bender, Special Libraries Association; (4) Paula Kaufman, Columbia University; (5) Herbert N. Foerstel, University of Maryland; (6) Judith Krug, American Library Association; and (7) James H. Geer, FBI. Additional materials include the transcript of a National Commission on Libraries and Information Science meeting containing the remarks of Thomas DuHadway, FBI; an FBI document "The KGB and the Library Target"; FBI documents released under the Freedom of Information Act; 11 letters to the Chairman of the House Subcommittee on Civil and Constitutional Rights; various correspondence from librarians and library associations; the text of H.R. 4947 and S. 2361, "Video and Library Privacy Protection Act of 1988"; and information on Soviet access to the National Technical Information Service (NTIS). (SD)

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FBI COUNTERINTELLIGENCE VISITS TO LIBRARIES

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON
CIVIL AND CONSTITUTIONAL RIGHTS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

JUNE 20 AND JULY 13, 1988

Serial No. 123

Printed for the use of the Committee on the Judiciary

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FBI COUNTERINTELLIGENCE VISITS TO LIBRARIES

MONDAY, JUNE 20, 1988

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:08 p.m., in room 2237, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Kastenmeier, Conyers, and Schroeder.

Staff present: James X. Dempsey, assistant counsel; and Alan Slobodin, associate counsel.

Mr. **Edwards**. The subcommittee will come to order.

The gentleman from Wisconsin, Mr. Kastenmeier.

Mr. **Kastenmeier**. Mr. Chairman, I ask unanimous consent that the subcommittee permit coverage of this hearing in whole or in part by television broadcast, radio broadcast or still photography in accordance with Committee Rule V.

Mr. **Edwards**. Without objection, it is so ordered.

This afternoon the subcommittee will examine efforts by the Federal Bureau of Investigation to collect counterintelligence information from librarians regarding their library patrons.

The subcommittee is well aware that, in the foreign counterintelligence area, the FBI has awesome responsibilities. For that reason, the Congress has given the FBI awesome resources and authority. But we have not given them unlimited powers, and we certainly have not authorized them to gain access to information on library usage.

Libraries are unique institutions in our society. They are intended to be havens for scholarly work and quiet relaxation; they provide a place for study, reflection, solitude and intellectual exploration. We encourage our children to go to libraries and learn the value of reading.

Every year our Government grants visas to thousands of foreign students and scholars so they can come here to use our libraries.

Library circulation and usage records are not ordinary third-party records like telephone or bank records. They should not be available to intelligence agencies just for the asking.

When we learned about the program several months ago, we got in touch with the FBI and asked them for the reasons behind the Library Awareness Program and their justification and so forth.

And to be candid, we have had very little success in having the FBI seem to understand our great concern, because we are very much concerned about this issue. That is the reason that we called these hearings today.

We are very pleased that these distinguished witnesses are here, and the subcommittee is most interested in hearing what they have to say about this program that is really so revolutionary in American society.

Does the gentleman from Wisconsin, Mr. Kastenmeier have an opening statement?

Mr. **Kastenmeier**. No, Mr. Chairman, other than to congratulate you on holding these hearings. I think they are very important.

To allow this matter to go much further without substantial inquiry by this committee, and it is the appropriate committee to do so, would be a terrible mistake. So I am very pleased that you are doing this, Mr. Chairman. As I say, I think you deserve the support of the committee.

Mr. **Edwards**. Thank you, Mr. Kastenmeier.

The gentlewoman from Colorado, Mrs. Schroeder.

Mrs. **Schroeder**. Thank you. I want to congratulate you and the committee for moving so rapidly on this serious issue, especially in the summer when many people are thinking about reading. Thank you for moving on this so rapidly.

Mr. **Edwards**. Thank you.

Do you, witnesses, do you solemnly swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

[Witnesses sworn.]

Mr. **Edwards**. The first three witnesses will constitute a panel. We will have all three of them testify and then subject them to some questions and some dialogue.

We trust that you can shorten your statements to some extent. We want to hear everything you have to say, but we always have time problems around here.

We are honored to have as the first witness Duane Webster, executive director, Association of Research Libraries here in Washington, DC.

Mr. Webster.

TESTIMONY OF DUANE WEBSTER, EXECUTIVE DIRECTOR, ASSOCIATION OF RESEARCH LIBRARIES

Mr. **Webster**. I appreciate this opportunity to testify before you today about what we view as a serious intrusion by Government into American libraries, an intrusion that has a fearsome effect on the way people use libraries in search of ideas and information.

The members of ARL oppose the FBI Library Awareness Program and other actions by the Bureau to monitor use or users of libraries, and we seek action by Congress that will put a stop to such efforts.

Openness of information exchange is a fundamental element of a democracy. The FBI is asking libraries to violate that principle and to police the use of information of a nation, which is a contradiction of the First Amendment as well as our professional code of ethics.

While the Government agency under scrutiny today is the Federal Bureau of Investigation, my comments are directed at this particular agency's actions, I want to emphasize that our concern extends to any Federal, State or local Government agency that attempts similar monitoring programs.

I might simply highlight in my testimony to you the reasons for our concern with the FBI pattern and program called the Library Awareness Program, and then talk a little bit about some of the contradictions that are apparent between what has been publicly reported by the FBI and what we are finding is actually taking place in our member libraries.

There are a number of reasons why the ARL opposes the FBI program.

First, we think this is a deliberate effort to control and intimidate library staff to cooperate in monitoring library use and their users. This is a real problem for us. It is a conflict between such a request and in many instances the State laws that exist.

There are also individual library policies that are intended to protect the confidentiality of library use and privacy of library users. The privilege of confidentiality between library user and librarian is founded on the same principles of personal privacy that exist between doctor and patient or lawyer and client. Libraries exist to provide access to a wide range of ideas and information that an individual may pursue without any apprehension of being monitored or judged.

Monitoring and reporting on library users is the antithesis of a librarian's professional code of ethics that protects each user's right to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired.

Even the suggestion of library manipulation by such Government requests will have a frightening effect on library users who begin to question how public their use of a library may become. Such perceptions profoundly inhibit the freedom of citizens to receive and exchange ideas.

The FBI's assumption that foreign access to unclassified U.S. information services and products is damaging to the U.S. has not been adequately demonstrated.

Any restrictions or inhibition on the exchange of unclassified scientific data, and the results of scientific research, have a detrimental impact on scientific and technological accomplishments and are counterproductive to the best interests of the country.

The FBI assumes, wrongly, that the threat of KGB collection of unclassified information available in U.S. libraries is sufficiently great, and the payoff from FBI efforts in libraries so significant, that they outweigh any unintended chilling effect on the life of the mind.

There has been some confusion about the nature and extent of the FBI visits to libraries. It has been commented on by the FBI that the Library Awareness Program has been confined to technical and scientific libraries in the New York area. Our information contradicts that.

Our members throughout the country indicate that this is much more broadly based than simply the New York libraries. We have reports from 10 district libraries that have indicated approaches by the FBI.

It is also the indication by the FBI that they are not interested in the reading habits of suspicious individuals. The reports that we received from our member libraries again specifically contradict this notion.

The requests have been broadly based and aimed at instructing library staff to determine who is suspicious and who is not suspicious in the way they are using the library.

The FBI has pointed out that they have not approached front level or, as they refer to them, lower-level library employees with the hope that they will circumvent rules and regulations in order to assist the FBI.

Again, our information from member libraries indicates that invariably the approach is to front-line public service staff who may not be as fully prepared to respond to their request as they need to be under the circumstances of library policy and statute.

Finally, the FBI has indicated that in their efforts to visit the libraries, that they have been doing this with an educational objective in mind, to alert librarians and library staff to the potential abuse of information services.

Again, the reports from our members suggest that that is not the case, that there has been very little educational or informational efforts offered. Instead, the inquiries have been much more of a fishing trip inquiry nature.

We identified three specific patterns of request made for information in these libraries. One, information about the kind of use made by one or several individuals.

Secondly, general information about who is using the library to locate certain categories of information, usually technical or scientific categories of information.

Finally, these vague and general requests that have been made for staff to report any suspicious activity, whatever suspicious might mean.

Agents tend initially to approach a staff member who works at a public desk. Frequently, it is a student assistant or a clerical worker instead of a member of the professional staff or library administration.

In some cases, the staff initially approached felt intimidated and led to believe their refusal to comply with the FBI request will be considered a sign of disloyalty or a lack of patriotism. In fact, the request put by FBI agents to library staff are against library policies and, in about two-thirds of the country, are illegal as per State law.

This pursuit of cooperation from library staff members by FBI agents has extended to follow-up contacts outside the library. FBI agents visited library staff in their homes on a Saturday afternoon. In another city an agent made a follow-up contact with a staff member who was recovering from surgery.

The FBI has also issued a reported entitled "The KGB and the Library Staff Target, 1962 to Present," in which they refer to large-scale thefts of microfiche from libraries by the KGB or people enlisted to work for the KGB.

[The FBI report is reproduced in the Appendix.]

ARL received no reports of large-scale theft of microfiche. Theft of this is a serious offense and any information the FBI could supply to help recover stolen material or prevent such losses would be gratefully received by the library suffering the loss. We are not aware that such reports have been made to library administrators.

While we judge the FBI report as inadequate justification for its activities in libraries, we urge that it be widely distributed to let the public judge for themselves the case made by the FBI.

Librarians are not naive to the reality of agents of hostile nations seeking intelligence information within the United States and of the responsibility of the Bureau in thwarting the success of these efforts. However, we do not believe that the FBI should place the library community in the position of violating State statutes and professional ethical standards.

Procedures already exist for the Bureau to pursue counterintelligence efforts. If the Bureau desires information about an individual who is the subject of a legitimate investigation, it may obtain a court order for the material pursuant to acceptable law. Asking librarians to allow FBI agents to bypass this step is unethical by our standards, illegal in many States, and unjustified by the FBI report.

The FBI's concern and efforts to monitor who has access to unclassified information parallels other initiatives recently undertaken by the U.S. Government. These efforts have been of concern for several years. Several Executive Branch directives have been involved. I cite them in my prepared testimony. I won't go into that background information further, but I would like to cite that as available in my testimony.

I might close by highlighting some of the action the Association has taken in response to the FBI's program. In 1985, in the wake of continuing Government actions that restrict access to information, the Association of Research Libraries adopted a statement on access to information. This statement reaffirms ARL's commitment to the principle that unrestricted access to and dissemination of ideas are fundamental to a democratic society.

ARL opposes the FBI Library Awareness Program and any other efforts to enlist cooperation of library staff to monitor use and users of libraries because these actions ignore this fundamental philosophy.

In May, 1988, at our recent membership meeting, the directors of the ARL libraries strongly opposed the FBI program in a very vocal and prolonged discussion. They adopted a statement specifically addressing library users' right to confidentiality.

The complete text of that statement is included in my testimony. But I want to highlight a specific principle that is embedded in that statement.

"Libraries . . . exercise a unique responsibility in preserving the freedom of citizens to receive and exchange ideas. Public confidence in libraries must not be shaken by any breach in the confidentiality of individual use of library resources."

The FBI apparently assumes that the threat of KGB collection of unclassified information available in U.S. libraries is sufficiently great, and the payoff from their efforts in libraries so significant, that they outweigh any unintended chilling effect on the life of the mind. We disagree. We find the initiative vaguely defined and open to misuse and abuse.

ARL urges that Congress take prompt action to stop FBI efforts to secure library staff cooperation in monitoring library use or users. The library system in this country plays a central role in preserving the freedom of citizens to receive and exchange ideas. Confidence in that system must not be shaken.

I will be happy to answer any questions you may have which would help to clarify ARL's position.

Mr. EDWARDS. Thank you, Mr. Webster. That is a splendid statement.

All statements will be made a part of the record in full.

[The prepared statement of Mr. Webster follows:]

Association of Research Libraries
1527 New Hampshire Avenue, N.W., Washington, D.C. 20036 (202) 232-2466

Statement of Duane E. Webster

Executive Director

Association of Research Libraries

before the Subcommittee on Civil and Constitutional Rights

Committee on the Judiciary

U.S. House of Representatives

on

FBI Investigation of Library Use and Users

June 20, 1988

My name is Duane E. Webster. I am Executive Director of the Association of Research Libraries, an organization of 118 major research libraries in the United States and Canada. I appreciate this opportunity to testify before you today about what we view as a serious intrusion by government into American libraries - an intrusion that has a chilling effect on the way people use libraries in search of ideas and information. The members of ARL oppose the FBI Library Awareness Program and other actions by the Bureau to monitor use or users of libraries, and we seek action by Congress that will put a stop to such efforts.

The government agency under scrutiny today is the Federal Bureau of Investigation. While my comments are directed at this particular agency's recent activities, I want to emphasize that our arguments apply to any Federal, State, or local government agency that attempts similar monitoring programs.

There are a number of reasons ARL opposes FBI, or any other government agency actions to cajole or intimidate library staff to cooperate in monitoring library use or users.

- There is a conflict between such requests and state law (in 38 states and the District of Columbia) and individual library policies that protect the confidentiality of library use.

- The privilege of confidentiality between library user and librarian is founded on the same principles of personal privacy that exist between doctor and patient or lawyer and client. Libraries exist to provide access to a wide range of ideas and information that an individual may pursue without any apprehension of being monitored or judged.

- Monitoring and reporting on library users is the antithesis of a librarian's professional code of ethics that protects each user's right to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired.

- Even the suggestion of library cooperation with such government requests will have a frightening effect on library users who begin to question how public their use of a library may become. Such perceptions profoundly inhibit the freedom of citizens to receive and exchange ideas.

- The FBI's assumption that foreign access to unclassified U.S. information services and products is damaging to the U.S. has not been adequately demonstrated.

- Any restrictions or inhibition on the exchange of unclassified scientific data, and the results of scientific research, have a detrimental impact on scientific and technological accomplishments and are counterproductive to the best interests of the country.

- The FBI assumes, wrongly, that the threat of KGB collection of unclassified information available in U.S. Libraries is sufficiently great, and the payoff from FBI efforts in libraries so significant, that they outweigh any unintended chilling effect on the life of the mind.

There has been some confusion about the extent of the FBI visits to libraries. A partial list includes Columbia University, New York University, New York Public Library, Brooklyn Public Library, SUNY-Albany, University of Maryland, University of Cincinnati, UCLA, University of Houston, University of Utah, University of Michigan, Broward County Public Library, Pennsylvania State University, and the University of Wisconsin. The kinds of requests the FBI agents make of library staff have been vague and varied from instance to instance. In general though, the requests can be divided into two kinds: information about the kind of use made by one or several individuals, and, information about who is using the library to locate certain categories of information - usually technical or scientific categories of information. In addition, general and vague requests have been made for staff to report any "suspicious" activity.

Since September 1987 the ARL office has sought actively to serve as a clearinghouse for information about FBI visits to our member libraries. From conversations with staff in libraries the ARL Office has learned that FBI agents have asked them to monitor inter-library loan requests, computer database usage, and photocopying. Library staff have been asked to supply reading lists of individuals or to suspend borrowing privileges.

Agents tend initially to approach a staff member who works at a public desk. Frequently, it is a student assistant or a clerical worker instead of a member of the professional staff or the library administration. In some cases, staff initially approached have felt intimidated, and are lead to believe that their refusal to comply with the FBI requests will be considered a sign of disloyalty or a lack of patriotism. In fact, the requests put by FBI agents to library staff are against library policies, and in about two thirds of the country are illegal as per state law. The pursuit of cooperation from library staff members by FBI agents has extended to follow-up contacts outside the library. FBI agents have visited library staff in their homes on a Saturday afternoon; in another city, an agent made a follow-up contact with a staff member who was recovering from surgery.

A February 1988 FBI report, The KGB and the Library Target 1962- Present, recently released by the FBI expressly to defend its activities in libraries, is inadequate. ARL finds the report to be a series of redundant charges unsupported by hard evidence that any damage has resulted from Soviet access to U.S. libraries. The report does not demonstrate any urgency or other compelling need to bypass the procedure of an FBI agent seeking a court order to secure priviledged information.

The report ignores the fact that FBI requests conflict with some state laws, with library policies, and with professional ethical values that protect the privacy of library users. It sweeps aside as irrelevant the inhibiting effect these FBI activities have on how the people of the nation use libraries.

The report refers to large scale theft of microfiche from libraries by the KGB or people enlisted to work for the KGB. ARL has received no reports of large scale theft of microfiche. Theft of library materials is a serious offense and any information the FBI could supply to help recover stolen material or prevent such losses would be gratefully received by the library suffering the loss. We are not aware that such reports have been made to library administrators.

While we judge the FBI report as inadequate justification for its activities in libraries, we urge that it be widely distributed to let the public judge for themselves the case made by the FBI. We recommend that the Subcommittee secure FBI agreement to distribute its report widely. At a minimum, and in compliance with law (chapter 19 of title 44 of the U.S. Code), it should be made part of the Congressional Depository Library Program administered by the Government Printing Office. In addition, FBI representatives could accept invitations to speak, and the report could be distributed, at meetings of library professionals such as the American Library Association, as a direct way of communicating FBI concerns to the profession.

Librarians are not naive to the reality of agents of hostile nations seeking intelligence information within the United States and of the responsibility of the Bureau in thwarting the success of these efforts. However, we do not believe that the FBI should place the library community in the position of violating state statutes and professional ethical standards. Procedures already exist for the Bureau to pursue counterintelligence efforts. If the Bureau desires information about an individual who is the subject of a legitimate investigation, it may obtain a court order for the material pursuant to applicable law. Asking librarians to allow FBI agents to bypass this step is unethical by our standards, illegal in many states, and unjustified by the FBI report.

The FBI report stresses that Soviet intelligence services (SIS) are interested in the nation's scientific and technical libraries because "their databanks and reference works, when accessed or removed, provide an important link in the SIS intelligence collection effort." We do not dispute the FBI's point that Soviet agents may be using libraries to collect information. This nation's libraries are treasure-troves of information. Considerable funds and effort are expended to maintain up-to-date library collections and to provide services that assist people to use the collections. It is important to realize however that the information resources to which any foreign nationals gain access -- including perhaps Soviet agents -- do not contain classified information and are therefore openly available from a variety of sources including libraries. Secondly, and more importantly, we must not lose sight of the fact that openness of information exchange in this nation is a fundamental element of a democracy and a precious right to protect in our free society.

To comply with the requests the FBI makes of libraries — to identify Soviet agents or suspicious activity by persons that may be cooperating with Soviet agents -- would require library staff to ascribe motives to the use of library resources and then report their judgments to the FBI. In effect, the FBI is asking librarians to police the use of libraries. ARL rejects this information policing role, because the assignment cannot be undertaken without impinging on citizens' rights to privacy. Such a role is the antithesis of a librarian's professional code of ethics that protects each user's right to privacy with respect to information sought or received and materials consulted, borrowed, or acquired.

The FBI's concern and efforts to monitor who has access to unclassified information parallels other initiatives recently undertaken by the U.S. Government. Members of the library and information communities have expressed alarm about government efforts to control access to what has been described as "unclassified but sensitive" information in government and private databases. The alarm has grown out of executive policy directives as well as actions and public statements by military and intelligence agency officials describing their concern about who has access to certain government and private databases. Within the Department of Defense (DOD), efforts have been under way for some time to try to limit Soviet bloc access to U.S. computer data. Reports of these efforts reveal the following DOD strategies: placing restrictions on Soviet scientists' use of U.S. supercomputers; applying the Export

Administration Act to technical data, thereby requiring the issuance of a license before 'sensitive' data can be exported; and creation of a new category of information, "unclassified but sensitive," to place technical data beyond the reach of publicly available databases.

These efforts have been of concern for several years. In the fall of 1986, considerable public controversy arose following the release of an all-encompassing definition of what kind of information might be considered sensitive, and following reports of visits by government officials to private database vendors and at least four academic libraries. These events added credence to worst-case-scenario speculation about the intent of executive policy. It became clear that the policy is intended to apply not only to government databases but also to private information systems and that it can result in government intimidation and restrictions on the public's access to information.

Two executive branch directives were involved: National Security Decision Directive (NSDD) 145 and National Telecommunications and Information Systems Security Policy (NTISSP) No. 2. NSDD 145 was promulgated by President Reagan on Sept. 18, 1984. It set U.S. Government policy and direction for "systems protection and safeguards for telecommunications and automated information systems that process or communicate sensitive but unclassified information" and also created an inter-agency committee that was the source of the second directive, NTISSP No. 2. Issued on Oct. 29, 1986, NTISSP No. 2 established the scope of 'sensitive' information as effectively all-inclusive. This directive is often referred to as the 'Poindexter memorandum' because it was signed by then National Security Advisor John M. Poindexter.

During 1986, officials from the DOD, the Central Intelligence Agency, and the Federal Bureau of Investigation visited private information companies (including Mead Data Central, Inc. and Dialog) to inquire about the names and addresses of the users of their online databases and installation of monitors on the communication systems to track usage. As a result of the six separate visits at Mead Data Central, the company decided to drop the National Technical Information Service (NTIS) file from their system. Also during 1986 libraries were visited by FBI agents asking for information about online search requests and technical report usage by non-citizens. Reports of such visits were confirmed at the University of Maryland (April 1986), New York University (Spring 1986), the University of Cincinnati (summer and fall 1986), and the State University of New York at Buffalo (fall 1986). Only at the SUNY-Buffalo campus did the agent pursue the matter to the point of getting a subpoena. The subpoena required the library to divulge information about a database search performed for a foreign student.

On Nov. 11, 1986, Diane Fountaine, Director of the Defense Department's Information Systems, spoke at a meeting of the Information Industry Association. She made public the definition of 'sensitive' information contained in the Poindexter memo and made clear it was intended to apply to private databases. "I don't believe that the issue is whether or not we're going to protect information," Ms. Fountaine said. "I believe that the issue is what information we're going to protect both within the Federal Government, both within DOD, and also within industry." Explaining the basis for DOD concerns, Ms. Fountaine said there is a need to place controls on databases to prevent Soviet bloc countries from gaining access to 'sensitive' information. She described a still classified Air Force Department study that represents such access as a serious threat. Reportedly, the Air Force study identifies two databases that should be of particular concern: The Defense Technical Information Center (DTIC) and NTIS. No explanation has been given about the relationship between this DOD concern about foreign access to the NTIS database and the Office of Management and Budget initiative to operate NTIS under contract with a private firm.

As a consequence of strong criticism aired during 1987 Congressional hearings by witnesses from inside and outside the government, including ARL, pressure was successfully exerted on the new White House staff to rescind NTISSP No. 2 and to undertake a review of NSDD 145. Congress passed the Computer Security Act of 1987 (PL 100-235) which transfers responsibility for developing computer security programs for databases containing unclassified information from the National Security Agency to the National Bureau of Standards. However, this law does not resolve the question of restrictions on unclassified information. Concerns continue about ongoing efforts within government to develop ways to monitor the use of libraries and databases and the prospect that the government will continue to develop and implement a new category of protected information.

Underlying the arguments supporting restricted access to unclassified information is the "mosaic theory" - the consequences of amassing bits of innocuous unclassified information together. Those who use the mosaic theory as an argument for restrictions point out that the amassed information may reveal something not in this country's best interest to a foreign nation that is strategically, or economically, competitive with the U.S. ARL's position is that the process identified in the mosaic theory is in fact a critical component of scholarly communication. Any restrictions on the ability to gain access to and consult unclassified information will stifle science and research, and inhibit this nation's pursuit of strategic and economic advantages.

The end result of broadly restrictive information policies is more damaging to the national interest than the evils they are intended to cure.

In 1985, in the wake of continuing government actions that restrict access to information, the Association of Research Libraries adopted a Statement on Access to Information. The statement reaffirms ARL's commitment to the principle that unrestricted access to and dissemination of ideas are fundamental to a democratic society. ARL opposes the FBI Library Awareness Program, and any other efforts to enlist cooperation of library staff to monitor use and users of libraries, because these actions ignore this fundamental philosophy.

In May 1988 the directors of ARL member libraries adopted a statement specifically addressing Library Users' Right to Confidentiality. The complete text of the statement follows:

> "The Association of Research Libraries is committed to the principle that unrestricted access to and dissemination of ideas are fundamental to a democratic society. Libraries, in addition to their other information services, exercise a unique responsibility in preserving the freedom of citizens to receive and exchange ideas. Public confidence in libraries must not be shaken by any breach in the confidentiality of individual use of library resources.
>
> The Association of Research Libraries condemns the efforts of any government agency to violate the privacy of library users, to subvert library patron records, and to intimidate or recruit library staff to monitor so-called "suspicious" library patrons or report on what or how any individual uses library resources. Such actions are an affront to First Amendment freedoms, individual privacy, and all citizens' right to know. These actions violate the basic tenets of a democratic society."

The FBI apparently assumes that the threat of KGB collection of unclassified information available in U.S. Libraries is sufficiently great, and the payoff from their efforts in libraries so significant, that they outweigh any unintended chilling effect on the life of the mind. We disagree. We find the initiative vaguely defined and open to misuse and abuse.

ARL urges that Congress take prompt action to stop FBI efforts to secure library staff cooperation in monitoring library use or users. The library system in this country plays a central role in preserving the freedom of citizens to receive exchange ideas. Confidence in that system must not be shaken.

11431

DUANE E. WEBSTER

Executive Director
Association of Research Libraries

Duane Webster received his M.A.L.S. from the University of Michigan in 1964, and worked in a variety of libraries before joining ARL in 1970 to establish the ARL Office of Management Services. During his tenure at ARL, he has designed a variety of programs to enhance and improve the management and services of research libraries, including study processes to assess public services, management systems, collections, and preservation activities, and developed a series of institutes on research libraries for library school faculty. He has also consulted in almost 100 libraries, provided management training to over 5000 librarians, and has written widely on the topics of organizational development and performance improvement for libraries. In 1988 he was selected by the ARL Board of Directors to serve as Executive Director.

ASSOCIATION OF RESEARCH LIBRARIES

The Association of Research Libraries is an organization of 118 major research libraries in the United States and Canada. Its purposes are to strengthen and extend the capacities of its member libraries to provide access to recorded information and to foster an environment where learning flourishes, to enhance scholarly communication, and to influence policies affecting the flow of information. Members include 106 large university libraries, the national libraries of both countries, and a number of public and special libraries with substantial research collections.

Attached: ARL Fact Sheet

11431

Association of Research Libraries
1527 New Hampshire Avenue, N.W., Washington, D.C. 20036 (202) 232-2466

ASSOCIATION OF RESEARCH LIBRARIES

Fact Sheet

Mission: To strengthen and extend the capacities of Association members to provide access to recorded knowledge and to foster an environment where learning flourishes, to make scholarly communications more effective, and to influence policies affecting the flow of information.

Membership: 118 research libraries in the United States and Canada.

Founded: 1932

Programs: Current areas of activity include: scholarly communication, building library collections and ensuring widespread availability and access to them, preservation of research library materials, staffing for research libraries, library education, information policy and legislative affairs relating to research libraries and scholarship, and library management and statistics.

Major projects include: the North American Collections Inventory Project, the Government Information in Electronic Format initiative, the National Register of Microfilm Masters (NRMM) Recon Project, the ARL Statistics Program, the OMS Academic Library Development Program, the OMS Training Program, and the OMS Systems and Procedures Exchange Center.

Officers:

President:	Elaine F. Sloan, Dean of University Libraries Indiana University
Vice President:	Charles E. Miller, Director of Libraries, Florida State University
Past President:	Herbert F. Johnson, Director of Libraries Emory University

Staff:
Duane E. Webster, Executive Director
Jaia Barrett, Federal Relations Officer
Nicola Daval, Program Officer
Jutta Reed-Scott, Program Officer
Jeffrey J. Gardner, Director, Office of Management Services

Office of Management Services:

The ARL Office of Management Services (OMS) was established in 1970 to help research libraries improve their management and service capabilities. OMS conducts research into the organizational problems of academic libraries, develops new management techniques, and offers information services and training.

(over)

Members:

National Libraries:
Canada Institute for Scientific and Technical Information
Library of Congress
National Agricultural Library
National Library of Canada
National Library of Medicine

Special Libraries:
Center for Research Libraries
Linda Hall Library
Newberry Library
Smithsonian Institution Libraries

Public Libraries:
Boston Public Library
New York Public Library
New York State Library

University Libraries:

Alabama
Alberta
Arizona
Arizona State
Boston
Brigham Young
British Columbia
Brown
Calif., Berkeley
Calif., Davis
Calif., Irvine
Calif., Los Angeles
Calif., Riverside
Calif., San Diego
Calif., Santa Barbara
Case Western Reserve
Chicago
Cincinnati
Colorado
Colorado State
Columbia
Connecticut
Cornell
Dartmouth
Delaware
Duke
Emory
Florida
Florida State
Georgetown
Georgia
Georgia Inst. of Tech.
Guelph
Harvard
Hawaii
Houston
Howard
Illinois
Indiana
Iowa
Iowa State
Johns Hopkins
Kansas
Kentucky
Kent State
Laval
Louisiana State
McGill
McMaster
Manitoba
Maryland
Massachusetts
Mass. Inst. of Tech.
Miami
Michigan
Michigan State
Minnesota
Missouri
Nebraska
New Mexico
New York
North Carolina
North Carolina State
Northwestern
Notre Dame
Ohio State
Oklahoma
Oklahoma State
Oregon
Pennsylvania
Pennsylvania State
Pittsburgh
Princeton
Purdue
Queen's
Rice
Rochester
Rutgers
Saskatchewan
South Carolina
Southern California
Southern Illinois
Stanford
SUNY Albany
SUNY Buffalo
SUNY Stony Brook
Syracuse
Temple
Tennessee
Texas
Texas A&M
Toronto
Tulane
Utah
Vanderbilt
Virginia
Virginia Poly.
Washington
Washington State
Washington, St. Louis
Waterloo
Wayne State
Western Ontario
Wisconsin
Yale
York

Mr. **Edwards**. The next member of the panel to testify is Mr. C. James Schmidt, executive vice president, Research Libraries Group, from Stanford, California.

Welcome.

TESTIMONY OF C. JAMES SCHMIDT, EXECUTIVE VICE PRESIDENT, RESEARCH LIBRARIES GROUP

Mr. **Schmidt**. Thank you, Mr. Chairman. It is a pleasure to represent the American Library Association at this hearing as the chair of the Association's Intellectual Freedom Committee.

The Intellectual Freedom Committee was created by the American Library Association in 1940 by the governing body of ALA. The committee's statement reads in part, "To recommend steps that may be necessary to safeguard the rights of library users, libraries and librarians in accordance with the First Amendment of the U.S. Constitution and the Library Bill of Rights as adopted by the ALA council."

Ours is a constitutional republic, a government "by the people, of the people, and for the people." In order for this government to function, its electorate must be able to be informed. The role of libraries as impartial resources providing information on all points of view is essential for this type of government and society, and must not be compromised.

Libraries are perhaps the greatest resource a free people can claim. They are the only places in our society where every person can find materials representing all points of view concerning the problems and issues confronting them as individuals and as a society.

In addition, libraries make these materials available and accessible to anyone who desires or requires them, regardless of age, race, religion, national origins, social or political views, economic status, or any other characteristic.

The ethical responsibilities of librarians are central to the ability of libraries to fulfill the role I have described. In addition to observing professional standards of service and behavior, librarians must provide service equally to all who seek it and "must protect each user's right to privacy with respect of information sought or received, and materials consulted, borrowed, or acquired."

Following the publicity given to the Library Awareness Program in 1987, the Bureau offered four reasons in defense of it. I would like to comment on each of those four.

First, the Bureau argued libraries have been used by Soviet and other intelligence agents to recruit operatives and that library staffs have been among the recruitment targets.

Two, that the program was limited to "the New York City area."

Three, that agents were not in fact asking for lists of books borrowed by specific individuals or any other information that would violate patrons' First Amendment rights.

Four, that librarians need not cooperate and can always say "no."

First, the alleged targeting of libraries as a place of recruitment and of librarians as potential operatives by Soviet intelligence agents is unsubstantiated. There has been no evidence offered to support this claim, in spite of the Bureau's statement that ". . . [our] investigations have thoroughly documented the many ways that specialized scientific and technical libraries have been used by the Soviet intelligence services."

The arrest of Gennadi Zakharov in 1986 has been cited by the Bureau as an instance of the contention that libraries are sites and librarians are targets of recruitment. The public facts of that incident indicate, however, that the student who worked for Zakharov was in fact (a) recruited by another student, not by Zakharov; and (b) asked to provide copies of unclassified materials.

More damaging, yet, to the Bureau's use of this case as an example is the clear fact that this student was being "run" by the FBI from the beginning. Are we truly being asked to believe that our national security is endangered by students who, under the control of the FBI, provide copies of unclassified journal articles to Russians?

Second, it has been claimed that the Library Awareness Program was and is limited to the "New York City area." Yet, in its presentation to the National Commission on Libraries and Information Science, a Bureau representative stated that ". . . we don't have a broad-based plan . . . We have a specialized problem in New York, Washington, DC., and maybe San Francisco with the Soviets. Very, very limited, small approach, very closely held."

And on May 17, 1988, Director Sessions told a Senate Judiciary Subcommittee that "where they are, we believe we must be, and when they are, we think we must be."

Third, the Bureau maintains that it is not interested and has not asked for lists of books borrowed by foreign nationals. Reports from libraries suggest otherwise. Columbia and Maryland Universities, you will hear from later, and they may provide you with further facts on this point.

Fourth, the Bureau says the librarians need not cooperate with them and can just say "no." The fact that many have said "no" is, in part, what has brought us here today. Library staff should not be subject, however, to intimidation at work or at home by agents of the FBI—as has, indeed, happened in some of the publicized cases.

In sum, the Library Awareness Program has not been justified and is not being conducted as the Bureau claims, either with respect to geographic or procedural limits.

Beyond the failure of the Bureau to provide justification of this program, there are at least six reasons why the Library Awareness Program, and all other approaches to libraries where the objective is to solicit library staffs to monitor and report on patron use, ought to be stopped.

First, such inquiries violate the privacy rights of library users regarding the materials and service they use.

Second, in 38 States and the District of Columbia—including many in which visits under this program are known to have occurred—the privacy rights of library users are protected by law. Is the FBI inciting library staffs to violate State laws?

Third, the libraries visited by the Bureau have no classified information in them, hence no prospect of endangering national security through the disclosure of classified data.

Fourth, the very likelihood that such a program could be effective is very small. How are such persons of concern to the FBI to be identified? By their clothing or their accents?

Fifth, is there a plausible probability that the national security will be compromised by the uses foreign nations make of the unclassified information available in libraries? Are we to limit access to unclassified information because of some claim that we are threatened by an "information mosaic?"

Sixth, it has long been a settled matter that aliens, while in the United States, do enjoy the rights provided in the First Amendment and are protected from State violation by the due process clause of the 14th amendment.

If the Bureau's concern is with jeopardy to our national security from uses made from unclassified information, instead of unlawful behavior by its agents, the Bureau should spend its energy on seeking to maintain as classified the information it regards as dangerous.

We seem to be fighting the battle of National Security Decision Directive 145 about sensitive but unclassified information all over again. I note the implementation memorandum for NSDD 145 signed by Mr. Poindexter was withdraw by his successor.

The unhindered exercise of the First Amendment to receive information free of unwarranted government intrusions on personal privacy is at the root of our constitutional republic. The requests of the FBI that library staff monitor and report the use of the library by any patron chills the First Amendment freedoms of all library and data-base users.

The Library Awareness Program is a threat to the fundamental freedom of this nation. If continued, it will seriously and unnecessarily invade the intellectual life of citizens.

Thank you.

Mr. EDWARDS. Thank you, Mr. Schmidt, for a very helpful statement.

[The prepared statement of Mr. Schmidt follows:]

Statement of

C. James Schmidt
Executive Vice President, Research Libraries Group, Inc.

before the
Subcommittee on Civil and Constitutional Rights

of the
House Committee on the Judiciary

on the
Library Awareness Program of the
Federal Bureau of Investigation

June 20, 1988

My name is C. James Schmidt. It is my pleasure to represent the American Library Association at this hearing, in my capacity as Chair of the Association's Intellectual Freedom Committee.

The American Library Association, founded in 1876, is the oldest and largest national library association in the world. Its concerns span all types of libraries: state, public, school and academic libraries, as well as special libraries serving persons in government, commerce and industry, the arts, the armed services, hospitals, prisons, and other institutions. With a membership of over 45,000 libraries, librarians, library trustees, and other interested persons from every state and many countries of the world, the Association is the chief spokesman for the people of the United States in their search for the highest quality of library and information services. The Association maintains a close working relationship with more than 70 other library associations in the United States, Canada, and other countries, and it works closely with many other organizations concerned with education, research, cultural development, recreation, and public service.

The Intellectual Freedom Committee was established in 1940 by ALA's governing body--the ALA Council. The Committee's statement of responsibility reads, in part, "To recommend such steps as may be necessary to safeguard the rights of library users, libraries, and librarians, in accordance with the First Amendment to the U.S. Constitution and the LIBRARY BILL OF RIGHTS as adopted by the ALA Council."

THE ROLE OF LIBRARIES AND LIBRARIANS IN A DEMOCRATIC SOCIETY

Ours is a constitutional republic - a government of the people, by the people, and for the people. But in order for this form of government to function effectively, its electorate must be able to be informed - the electorate must have information available and accessible. The role of libraries as impartial resources providing information on all points of view is essential for this type of government and society, and must not be compromised.

Indeed, libraries are perhaps the greatest resource a free people can claim. They most definitely are the only places in our society where every person can find materials representing all points of view concerning the problems and issues confronting them as individuals and as a society. In addition, libraries make these materials available and accessible to anyone who desires or requires them, regardless of age, race, religion, national origins, social or political views, economic status, or any other characteristic.

The ethical responsibilities of librarians are central to the ability of libraries to fulfill the role I have described. In addition to observing professional standards of service and behavior, librarians must provide service equally to all who seek it and "must protect each user's right to privacy with respect of information sought or received, and materials consulted, borrowed, or acquired." (STATEMENT ON PROFESSIONAL ETHICS--copy attached)

The American Library Association has had a "Policy on Confidentiality of Library Records" (copy attached) since 1970. This formal policy was adopted at that time in response to attempts by U.S. Treasury agents to examine circulation records in a number of cities. The "Introduction to the policy reads equally well in the present context:

> ...the efforts of the federal government to convert library circulation records into suspect lists constitute an unconscionable and unconstitutional invasion of the right of privacy of library patrons and, if permitted to continue, will do irreparable damage to the educational and social value of the libraries of the country.

Since 1970, thirty-eight states and the District of Columbia (list attached) have enacted "Confidentiality of Library Records" statutes. These statutes have been interpreted by the Intellectual Freedom Committee of the American Library Association to encompass database search records, reference interviews, interlibrary loan records and all other personally-identifiable uses of library materials, facilities and services.

BACKGROUND ON THE FBI'S VISITS TO LIBRARIES

The program of visits by FBI agents to libraries as part of the Bureau's domestic surveillance of alleged Soviet and other intelligence agents has been described by the Bureau in its unclassified report, THE KGB AND THE LIBRARY TARGET, 1962-PRESENT (1988), and in the transcript of "FBI Presentation to U.S. National Commission on Libraries and Information Science" (January 14, 1988; released February 19, 1988). There have also been numerous reports published in the media on the Bureau's activities, e.g., "The FBI's Invasion of Libraries" (THE NATION, April 9, 1988: p.497-502); NEW YORK TIMES, September 18, 1987; WASHINGTON POST, March 27, 1988; and the WALL STREET JOURNAL, May 19, 1988.

In general terms, the Library Awareness Program has been justified by the FBI as falling within its statutory responsibility for counterintelligence activities. The Bureau claims that libraries have in the past been used as recruiting grounds by KGB agents and that library staffs, as well as library users, have been the targets of such recruitment.

Since the initial publicity given to the Program in September, 1987, the Bureau has offered four reasons in defense of it:

1) that libraries have been used by Soviet and other

intelligence agents to recruit operatives and that library staffs have been among the recruitment targets;

2) that the Program was limited to "the New York City area";

3) that agents were not in fact asking for lists of books borrowed by specific individuals or any other information that would violate patrons' First Amendment rights;

4) that librarians need not cooperate and can always say "no."

A few comments on each of the Bureau's defenses is appropriate.

First, the alleged targeting of libraries as a place of recruitment and of librarians as potential operatives by Soviet intelligence agents is unsubstantiated. There has been no evidence offered to support this claim, in spite of the Bureau's statement that "...[our] investigations have thoroughly documented the many ways that specialized scientific and technical libraries have been used by the Soviet intelligence services."

The arrest of Gennadi Zakharov in 1986 has been cited by the Bureau as an instance of the contention that libraries are sites and librarians are targets of recruitment. The public facts of that incident indicate, however, that the student who worked for Zakharov was, in fact, (a) recruited by another student, not by Zakharov; and (b) asked to provide copies of UNCLASSIFIED materials. More damaging, yet, to the Bureau's use of this case as a cautionary example is the clear fact that this student was being "run" by the FBI from the beginning. Are we truly being asked to believe that our national security is endangered by students who, under the control of the FBI, provide copies of unclassified journal articles to Russians?!

Second, it has been claimed that the Library Awareness Program was and is limited to the "New York City area." Yet, in its presentation to the National Commission on Libraries and Information Science, a Bureau representative stated that "...we don't have a broad-based plan.... We have a specialized problem in New York, Washington, D.C. and maybe San Francisco with the Soviets. Very, very limited, small approach, very closely held." And on May 17, 1988, Director Sessions told a Senate Judiciary Subcommittee that "Where they are, we believe we must be, and when they are, we think we must be."

Third, the Bureau maintains that it is not interested in and has not asked for lists of books borrowed by foreign nationals. At the Pennsylvania State University, an FBI agent requested details about a readily available dissertation which the library had been asked to obtain on interlibrary loan for a patron who was East German. At the University of California at Los Angeles, FBI agents requested staff in the Engineering and Mathematical Sciences Library to report on the activities and the reading interests of a Russian student -- and anyone else of a "similarly suspicious nature." At New York University, agents asked the library staff to report on database searches and photocopying by a member of the Soviet mission to the United Nations.

Last, the Bureau says that librarians need not cooperate with them and can just say "no." The fact that many have said "no" is, in part, what has brought us here today. Library staff should not be subject, however, to intimidation at work or at home by agents of the FBI--as has, indeed, happened in some of the publicized cases.

In sum, the Library Awareness Program has not been justified and is not being conducted as the Bureau claims, either with respect to geographic or procedural limits.

Beyond the failure of the Bureau to provide justification of this program, there are at least six reasons why the Library Awareness Program, and all other approaches to libraries where the objective is to solicit library staffs to monitor and report on patron use, ought to be stopped.

First, such inquiries violate the privacy rights of library users regarding the materials and services they use. The disclosure of personally-identifiable information in the exercise of First Amendment rights, without a showing of good cause having been made to and accepted by a judicial authority, cannot but have a chilling effect on the intellectual life of our society.

Second, in 38 states (and the District of Columbia) -- including many in which visits under this program are known to have occurred--the privacy rights of library users are protected by law. Is the FBI inciting library staffs to violate state laws? Does the FBI believe that it is above such laws or that it can avoid them by questioning, as it has in one instance, library employees about their work when they are at home? ALL these laws provide for disclosure of protected information upon presentation of a court order or subpoena.

Third, the libraries visited by the bureau have no CLASSIFIED information in them, hence no prospect of endangering national security through the disclosure of CLASSIFIED data.

Fourth, the likelihood that such a program could be effective is very small. How are such persons of concern to the FBI to be identified--by their clothing or their accents?

Fifth, is there a plausible probability that the national security will be compromised by the uses foreign nationals make of the unclassified information available in libraries? Are we to limit access to unclassified information because some claim that we are threatened by an "information mosaic," composed of separate bits of unclassified data such that the whole is greater than the sum of its parts?

Sixth, it has long been a settled matter (e.g. Bridges vs. Nixon 1944, Galvan vs. Press 1953) that aliens, while in the United States, do enjoy the rights provided in the First Amendment and are protected from state violation by the due process clause of the 14th Amendment.

The unhindered exercise of the First Amendment right to receive information free from unwarranted government intrusions upon personal privacy is at the root of our constitutional republic. The requests of the FBI that library staff monitor and report the use of the library by any patron chills the First Amendment freedoms of all library and database users. The Library Awareness Program is a threat to the fundamental freedom of this nation. If continued, it will seriously and unnecessarily invade the intellectual life of citizens.

Thank you.

Attachments:

Library Bill of Rights
Statement of Professional Ethics
Policy on Confidentiality
List of States with Confidentiality of Library Records Statutes
List of Institutions Visited by the FBI

Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

1. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

2. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

3. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

4. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

5. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

6. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Adopted June 18, 1948.
Amended February 2, 1961, June 27, 1967, and January 23, 1980,
by the ALA Council.

STATEMENT ON PROFESSIONAL ETHICS, 1981

Introduction

Since 1939, the American Library Association has recognized the importance of codifying and making known to the public and the profession the principles which guide librarians in action. This latest revision of the CODE OF ETHICS reflects changes in the nature of the profession and in its social and institutional environment. It should be revised and augmented as necessary.

Librarians significantly influence or control the selection, organization, preservation, and dissemination of information. In a political system grounded in an informed citizenry, librarians are members of a profession explicitly committed to intellectual freedom and the freedom of access to information. We have a special obligation to ensure the free flow of information and ideas to present and future generations.

Librarians are dependent upon one another for the bibliographical resources that enable us to provide information services, and have obligations for maintaining the highest level of personal integrity and competence.

Code of Ethics

I. Librarians must provide the highest level of service through appropriate and usefully organized collections, fair and equitable circulation and service policies, and skillful, accurate, unbiased, and courteous responses to all requests for assistance.

II. Librarians must resist all efforts by groups or individuals to censor library materials.

III. Librarians must protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired.

IV. Librarians must adhere to the principles of due process and equality of opportunity in peer relationships and personnel actions.

V. Librarians must distinguish clearly in their actions and statements between their personal philosophies and attitudes and those of an institution or professional body.

VI. Librarians must avoid situations in which personal interests might be served or financial benefits gained at the expense of library users, colleagues, or the employing institution.

POLICY ON CONFIDENTIALITY OF LIBRARY RECORDS*

The Council of the American Library Association strongly recommends that the responsible officers of each library, cooperative system, and consortium in the United States:

1. Formally adopt a policy which specifically recognizes its circulation records and other records identifying the names of library users to be confidential in nature.

2. Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order, or subpoena as may be authorized under the authority of, and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigative power.

3. Resist the issuance or enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction.**

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*Note: See also ALA POLICY MANUAL 54.15 - CODE OF ETHICS, point #3, "Librarians must protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired."

**Note: Point 3, above, means that upon receipt of such process, order, or subpoena, the library's officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.

Adopted January 20, 1971; revised July 4, 1975, July 2, 1986,
by the ALA Council

See reverse side for suggested procedures for implementation.

[ISBN 8389-6082-0]

SUGGESTED PROCEDURES FOR IMPLEMENTING

"POLICY ON CONFIDENTIALITY OF LIBRARY RECORDS"

When drafting local policies, libraries should consult with their legal counsel to insure these policies are based upon and consistent with applicable federal, state, and local law concerning the confidentiality of library records, the disclosure of public records, and the protection of individual privacy.

Suggested procedures include the following:

1. The library staff member receiving the request to examine or obtain information relating to circulation or other records identifying the names of library users, will immediately refer the person making the request to the responsible officer of the institution, who shall explain the confidentiality policy.

2. The director, upon receipt of such process, order, or subpoena, shall consult with the appropriate legal officer assigned to the institution to determine if such process, order, or subpoena is in good form and if there is a showing of good cause for its issuance.

3. If the process, order, or subpoena is not in proper form or if good cause has not been shown, insistence shall be made that such defects be cured before any records are released. (The legal process requiring the production of circulation or other library records shall ordinarily be in the form of subpoena "duces tecum" [bring your records] requiring the responsible officer to attend court or the taking of his/her disposition and may require him/her to bring along certain designated circulation or other specified records.)

4. Any threats or unauthorized demands (i.e., those not supported by a process, order, or subpoena) concerning circulation and other records identifying the names of library users shall be reported to the appropriate legal officer of the institution.

5. Any problems relating to the privacy of circulation and other records identifying the names of library users which are not provided for above shall be referred to the responsible officer.

Adopted by the ALA Intellectual Freedom Committee,
January 9, 1983; revised January 11, 1988

[confpol.pro]

CONFIDENTIALITY STATUTES

List of States

The following states have confidentiality of library records statutes:

- Alabama
- Alaska
- Arizona
- California
- Colorado
- Connecticut
- Delaware
- District of Columbia
- Florida
- Georgia
- Illinois
- Indiana
- Iowa
- Kansas
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Missouri
- Montana
- Nebraska
- Nevada
- New Jersey
- New York
- North Carolina
- North Dakota
- Oklahoma
- Oregon
- Pennsylvania
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Virginia
- Washington
- Wisconsin
- Wyoming

[confstat.lst]

INSTITUTIONS VERIFIED TO HAVE BEEN VISITED BY THE FEDERAL BUREAU OF INVESTIGATION
As of May 10, 1988

The Office for Intellectual Freedom has written documentation or press accounts of these visits and the requests made by FBI agents.

INSTITUTION	LIBRARY	CONTACT
Academic Institutions		
Columbia University	Math/Science Library	Paula Kaufman
New York University	Courant Institute of Mathematical Sciences	Nancy Gubman
University of Maryland*	Engineering & Physical Sciences Library	Herb Foerstel
George Mason University*		Charlene Hurt
University of Kansas*	(OIF has documentation, but Library has requested confidentiality on details of visit)	
University of Calif. at Los Angeles*	Engineering & Mathematical Sciences Library	Ruth B. Gibbs
Pennsylvania State University*	University Libraries	James G. Neal
University of Michigan*	Engineering-Transportation Library	Maurita Peterson Holland
University of Houston*		Scott Chafin (Univ. Counsel)
University of Cincinnati*		Dorothy Byers
University of Wisconsin-Madison*		Alexander Rolich
State University of New York at Buffalo*	(This is a documented visit, but OIF considers it different in that a specific request was made in relation to a specific individual and the FBI subsequently followed-up with a subpoena for the information.)	Stephen Roberts
University of Utah*	Government Documents Library	Roger K. Hanson

Public Institutions

Broward County (FL) Public Library System*	Selma Algaze
Brooklyn Public Library	Ellen Rudley
New York Public Library	Paul Fasana

Other

Information Industry Association*	Ken Allen

*Visits by FBI agents to these libraries have been confirmed and documented. It has not been verified, however, that they are part of the Bureau's acknowledged "Library Awareness Program."

Mr. **Edwards**. The last member of the panel to testify is David Bender, executive director, Special Libraries Association, Washington, DC.

Mr. Bender.

TESTIMONY OF DAVID BENDER, EXECUTIVE DIRECTOR, SPECIAL LIBRARIES ASSOCIATION

Mr. **Bender**. Thank you, Mr. Chairman.

On behalf of the Association, I commend the subcommittee for this opportunity to discuss the Library Awareness Program.

I will discuss the Association's position with the program as well as the Association's apparent involvement with the FBI, and not go into some of the details my distinguished colleagues have already provided you.

The Special Libraries Association is an international organization of more than 12,500 librarians, information managers, and brokers. Special libraries serve industry, business, research, educational and technical institutions, government, special departments of public and university libraries, newspapers, museums and other organizations both in the for-profit and not-for-profit sectors, all of which require or produce specialized information.

The Association and its members are concerned with the advancement and improvement of communications and the dissemination and ultimate use of information and knowledge for the welfare of all users.

The Board of Directors of SLA first discussed the FBI's Library Awareness Program at its meeting in October, 1987. The issue was brought to the Board's attention by the Association's Government Relations Committee following news reports about FBI agents asking several librarians in the New York City area to watch for "hostile intelligence officers" of foreign countries who might be stealing information from those libraries.

During the October Board of Directors meeting, which took place here in Washington, DC., both opponents and proponents of the FBI program were encouraged to talk about the Library Awareness Program. The Board played a vital role by serving as a forum for discussion of the issue. However, lacking sufficient information and details, the Association's Board of Directors elected not to take a position.

The FBI did issue a "press response," dated September 18, which I have attached for the record, but it did not provide any additional data. As a matter of fact, when a staff member from SLA called the FBI in late September to get information about the program, an FBI agent read the press response word for word with no additional discussion.

The SLA staff person finally asked for a copy of the press response and did receive one in the mail. Interestingly, the response arrived on a plain sheet of paper with no identifying letterhead. I understand that colleagues from other associations were unable to obtain a copy of that response from the FBI.

The executive committee of SLA's board, at a meeting on April 18, 1988, again discussed the Library Awareness Program. The executive committee reviewed the developments since October and after lengthy deliberation and consideration, reaffirmed previous board actions supporting access to information and confidentiality of library records held by public institutions.

This past Friday, SLA concluded its 79th annual conference in Denver, Colorado. At our annual business meeting on June 15, the membership resoundingly approved the following policy which was subsequently adopted by the Board of Directors as the Association's official stance on the FBI Library Awareness Program.

"The Association reconfirms its endorsement of the rights of users to have access to information and the protection of the confidentiality of library records maintained by public institutions.

"The Association maintains that no individual, including groups of individuals, has the right to restrict the use of public resources in such a way as to deprive one's access to needed and appropriate information.

"Further, the Association opposes the activities of the FBI Library Awareness Program."

At this time, we do wish to express our pressing concerns over the conflicting and misleading reports issued by the FBI, specifically, the transcript of the closed-door meeting held in January with the National Commission on Libraries and Information Science (NCLIS) and the report, "The KGB and the Library Target, 1962 to Present." [Both the transcript and the report are reproduced in the Appendix to these hearings.] Together, these reports imply that SLA is both cooperating with the FBI Library Awareness Program while supplying "large volumes of documents" to the Soviets.

Undoubtedly, the Association and its membership are perplexed by these unfounded reports which, to the best of our knowledge, are untrue and serve only to unfairly implicate SLA in wrongdoing.

I have attached, for the record, two letters we have sent to the Director of the FBI. The first, dated April 21, asked Director Sessions to explain why our Association, referred to by the FBI as the "specialized library association," has been linked to the program. An FBI agent was quoted in an article in *The Nation* magazine as saying, the "specialized libraries association" was cooperating with the program.

In our letter, we asked Director Sessions to let us know what evidence exists to make this assumption. We are not cooperating and do not understand where this misinformation originated.

On the heels of this, less than a month later, SLA staff learned of an FBI report released to this subcommittee, "The KGB and the Library Target, 1962 to Present." This report stated unequivocally that "the SIS (Soviet intelligence service) has utilized clandestine means to obtain large volumes of documents from the Special Libraries Association (SLA)."

In this report, our name was correct. The statement, however, is absurd, as we said in our May 23 letter to Director Sessions.

In this letter, we asked the FBI to provide information as to when the Association allegedly—and I emphasize "allegedly"—provided these large volumes of information to Soviet agents.

As I was leaving for the Association's 79th annual conference, a response was received from Director Sessions to the first letter. His letter, while addressing the Soviet threat to scientific and technical libraries, did state that the FBI used the "Special Libraries Directory of Greater New York" to identify potential libraries to visit, but never made an effort to explain the implication of SLA endorsing the program.

We anxiously await Director Sessions' response to our second letter. We hope that he will clearly address the types of information provided by SLA to the Soviets. In our estimation, and as a review of our library will provide, the only "volumes" of information that the Soviets could obtain would be on effective management of a special library.

SLA is prepared to work with other library and information associations and the appropriate congressional committees to ascertain the breadth of the FBI's Library Awareness Program and to obtain complete answers to the questions we have raised today.

We understand the FBI's concerns with protecting our national security but believe that a balance must be struck between national security and the rights of users to open and continued access to unclassified information and confidentiality of their borrowing practices.

We commend the subcommittee for its continuing interest in this issue. We look forward to working with you and our colleagues in finding a speedy recovery to this dilemma.

Mr. EDWARDS. Thank you, Mr. Bender.

[The prepared statement of Mr. Bender follows:]

Special Libraries Association
1700 Eighteenth Street, N.W
Washington, D.C. 20009
202/234-4700

**Statement of the
Special Libraries Association
on the
Federal Bureau of Investigation's
Library Awareness Program
before the
House Subcommittee on
Civil and Constitutional Rights
June 20, 1988**

**David R. Bender, Ph.D.
Executive Director**

David R. Bender, Executive Director
Richard D. Battaglia, Associate Executive Director

I am David R. Bender, Executive Director of the Special Libraries Association. On behalf of SLA, I want to thank you, Mr. Chairman and members of the Subcommittee for this opportunity to discuss the Federal Bureau of Investigation's Library Awareness Program.

The Special Libraries Association is an international organization of more than 12,500 librarians, information managers, and brokers. Special libraries serve industry, business, research, educational and technical institutions, government, special departments of public and university libraries, newspapers, museums and other organizations both in the for-profit and not-for-profit sectors, all of which require or produce specialized information. The Association and its members are concerned with the advancement and improvement of communications and the dissemination and ultimate use of information and knowledge for the welfare of all users.

As early as 1980, the Association's Board of Directors approved a statement supporting access to information which is contained in the Association's Government Relations Policy. Further, the Association supports confidentiality of library records maintained by public institutions which is addressed in the public laws of 38 states and the District of Columbia.

The Board of Directors of SLA first discussed the FBI's Library Awareness Program at its meeting in October 1987. The issue was brought to the Board's attention by the Association's Government

Relations Committee following news reports about FBI agents asking several librarians in the New York City area to watch for "hostile intelligence officers" of foreign countries who might be stealing information from those libraries.

During the October Board of Directors meeting, which took place here in Washington, D.C., both opponents and proponents of the FBI program were encouraged to talk about the Library Awareness Program. The Board played a vital role by serving as a forum for discussion of the issue. However, lacking sufficient information and details, the Association's Board of Directors elected not to take a position.

The FBI did issue a "press response," dated September 18, which I have attached for the record, but it did not provide any additional data. As a matter of fact, when a staff member from SLA called the FBI in late September to get information about the program, an FBI agent read the press response word for word with no additional discussion. The SLA staff person finally asked for a copy of the press response and did receive one in the mail. Interestingly, the response arrived on a plain sheet of paper with no identifying letterhead. I understand that colleagues from other associations were unable to obtain a copy of that response from the FBI.

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This past Friday, SLA concluded its 79th Annual Conference in Denver. At our annual business meeting on June 15, the membership resoundingly approved the following policy which was subsequently adopted by the Board of Directors as the Association's official stance on the FBI Library Awareness Program:

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> The Association opposes the activities of the FBI Library Awareness Program."

At this time we do wish to express our pressing concerns over the conflicting and misleading reports issued by the FBI, specifically, the transcript of the closed door meeting held in January with the National Commission on Libraries and Information Science--NCLIS--and the report, "The KGB and the Library Target 1962 - Present." Together, these reports imply that SLA is both cooperating with the FBI Library Awareness Program while supplying "large volumes of documents" to the Soviets.

Undoubtedly, the Association and its membership are perplexed by these unfounded reports which, to the best of our knowledge, are untrue and serve only to unfairly implicate SLA of wrongdoing.

I have attached, for the record, two letters we have sent to the Director of the FBI. The first, dated April 21, asked Director Sessions to explain why our Association, referred to by the FBI as the "specialized library association," has been linked to the Program. An FBI agent was quoted in an article in The Nation magazine as saying the, "specialized libraries association" was cooperating with the program. In our letter, we asked Director Sessions to let us know what evidence exists to make this assumption. We are not cooperating and do not understand where this misinformation originated.

On the heels of this, less than a month later, SLA staff learned of an FBI report released to this Subcommittee, "The KGB and the Library Target: 1962 - Present." This report stated unequivocally that, "the SIS (Soviet intelligence service) has utilized clandestine means to obtain large volumes of documents from the Special Libraries Association (SLA)." In this report, our name was correct - the statement, however, is "absurd" as we said in our May 23 letter to Director Sessions.

In this letter, we asked the FBI to provide information as to when the Association allegedly, and I emphasize allegedly, provided these large volumes of information to Soviet agents.

As I was leaving for the Association's 79th Annual Conference, a response was received from Director Sessions to the first letter. His letter, while addressing the Soviet threat to scientific and technical libraries, did state that the FBI used the "Special Libraries Directory of Greater New York" to identify potential libraries to visit, but never made an effort to explain the implication of SLA endorsing the program.

We anxiously await Director Sessions' response to our second letter. We hope that he will clearly address the types of information provided by SLA to the Soviets. In our estimation, and as a review of our library will provide, the only "volumes" of information that the Soviets could obtain would be on effective management of a special library.

SLA is prepared to work with other library and information associations and the appropriate Congressional committees to ascertain the breadth of the FBI's Library Awareness Program and to obtain complete answers to the questions we have raised today.

We understand the FBI's concerns with protecting our national security but believe that a balance must be struck between national security and the rights of users to open and continued access to unclassifed information and confidentiality of their borrowing practices.

We commend the Subcommittee for its continuing interest in this issue and appreciate the time to represent the views of our members. I will be happy to answer any questions you might have.

Special Libraries Association

1700 Eighteenth Street, N.W.
Washington, D.C. 20009
202/234-4700

April 21, 1988

The Honorable William Steele Sessions
Director
Federal Bureau of Investigation
9th & Pennsylvania Avenue, NW
Washington, D.C. 20535

Dear Director Sessions:

In the past several months, a great deal of furor has been generated in both the general media as well as in the library press surrounding the FBI's Library Awareness Program.

This program first came to the attention of the Board of Directors of the Special Libraries Association (SLA) at a meeting in October 1987. Discussion was heard by both proponents and opponents of the program. The Board took no action to support or oppose the program. SLA has a long-standing history of supporting access to information and the confidentiality of library users.

Despite this posture, the media has construed our position as one of supporting the FBI's program. A recent article in The Nation quoted an FBI agent saying that the "specialized libraries association" was cooperating in the program. The article went on to say that the name was generic but indicated that the "head of the association has endorsed the program."

As a result of this article, and others like it which imply that the Special Libraries Association is indeed that cooperating professional association, staff have been badgered by any number of people and in a variety of settings as to our position on the issue.

By this letter, Mr. Sessions, I am asking whether or not the Special Libraries Association is the association which has supposedly endorsed the FBI program. Our attempts to ascertain specifics of the Library Awareness Program have been met with a response that further information will not be released. Yet the air is heavy with innuendo that the cooperating association is the Special Libraries Association.

My concern is twofold. First, the reputation of SLA has been cast in doubt. Secondly, accurate information should be provided to the media. If the association cooperating with the FBI in this program is not the Special Libraries Association, then the choice of the generic "specialized libraries association" is misleading and should be corrected.

David R. Bender, Executive Director
Richard D. Battaglia, Associate Executive Director

I hope that you will understand the two concerns that I have outlined above. I look forward to your prompt reply.

Sincerely,

David Bender

David R. Bender, Ph.D.

cc: The Honorable Don Edwards
The Honorable Patrick Leahy

Special Libraries Association
1700 Eighteenth Street, N.W.
Washington, D.C. 20009
202/234-4700

From the office of the President: Emily R. Mobley, Associate Director, Purdue University Libraries, Stewart Center, West Lafayette, IN 47907 (317) 494-2900

May 23, 1988

The Honorable William Steele Sessions
Director
Federal Bureau of Investigation
9th and Pennsylvania Avenue, NW
Washington, D.C. 20535

Dear Director Sessions:

As President of the Special Libraries Association, I want to protest the statement made in the FBI Report, "The KGB and the Library Target: 1962-Present," that, "The SIS has utilized clandestine means to obtain large volumes of documents from the Special Libraries Association (SLA)."

This statement is not only false, but unfounded. As President of SLA, I have no knowledge of the Association providing "documents" to Soviet operatives, nor does David R. Bender, SLA's Executive Director for the past nine years.

To an outsider of the library field, however, the statement is logical and rational. Who better to approach for scientific or technical information than the Association representing those professionals who manage such information?

Yet, what would one find in the library at the Association offices? SLA maintains a small collection, approximately 3,000 volumes and 150 journals. Nothing in SLA's library is sensitive or classified.

To an insider, the assertion that SIS has obtained anything of value to governments hostile to the United States is absurd. The scope of SLA's collection is library management. At best, a Soviet agent would come away with "volumes of documents" on managing a special library. The only microfiche that could be stolen is archival records of Association documents or newsletters.

Not only is the statement in this report damaging, but it defames and discredits the reputation of the Special Libraries Association and the professionals who manage the daily operations of SLA.

Recent reports from the FBI imply that SLA is the association cooperating with the Library Awareness Program. Although you have not replied to Dr. Bender's letter of April 21 requesting that the FBI confirm or deny SLA's endorsement of the Library Awareness Program, it seems unlikely and contradictory that SLA would cooperate with the Library Awareness Program and provide information to the Soviets.

Further, it strikes me as odd that the FBI has suddenly issued a report on suspected Soviet infiltration of scientific and technical libraries at a time when the agency has come under increasing attack by the library community and media for its Library Awareness Program, not to mention members of Congress who question the need for the program.

This report, released without a prior copy to SLA leaders, has caused tremendous difficulty for the Association, similar to the problems caused following, the closed-door meeting held with the Commissioners of the National Commission on Libraries and Information Science in which SLA was first linked to the Library Awareness Program. These unsubstantied reports create unneeded tension, stress, and problems in the Association's relationships with its members and the library community and associations with which SLA regularly works and cooperates.

I hope that you will provide me with information on those times when the Association allegedly provided information to Soviet agents. Otherwise, I presume that your agency will stop erroneously linking the Special Libraries Association to either the Library Awareness Program or reports that the Association has provided information to Soviet agents.

Sincerely yours,

Emily R Mobley

Emily R. Mobley
President

cc: The Honorable Don Edwards
The Honorable Patrick Leahy
The Honorable David L. Boren
The Honorable Louis Stokes

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

June 7, 1988 [illegible]

Dr. David R. Bender
Special Libraries Association
1700 Eighteenth Street, N.W.
Washington, D. C. 20009

Dear Dr. Bender:

I have received your letter of April 21, 1988, in which you express your concerns regarding the FBI's Library Awareness contacts. I appreciate the opportunity to clarify the Bureau's objectives in connection with this effort, as well as to address the points raised in your letter.

The FBI in New York City began contacting specialized scientific and technical libraries when it became apparent that officers of the Soviet intelligence services (SIS) were using selected libraries to complement various facets of the SIS intelligence collection effort. Gennadiy Fedorovich Zakharov, a Soviet national employed by the United Nations who was arrested by the FBI on August 23, 1986, for espionage, utilized libraries in his intelligence collection efforts.

Mr. Zakharov's use of libraries did not come as a surprise, inasmuch as FBI investigations over the years have documented a large number of cases where SIS officers have exploited contacts with specialized libraries and librarians.

The SIS is interested in the Nation's scientific and technical libraries because their data banks and reference works, when accessed or removed, are an important element of the SIS intelligence collection effort. The SIS leadership structure, in Moscow and at various American-based Soviet establishments, has historically decided that access to the libraries and librarians should be an integral component of the overall SIS effort, and the development of librarians as sources of information or agents has become a worthy complement to the SIS mission.

Access to term papers and theses written by university students assists in the SIS collection effort and also helps to identify students who might be potential recruitment targets.

To alert librarians to the possibility that representatives of the SIS might be interested in their specific library or their employees, FBI Agents have visited some of the libraries identified in the "Special Libraries Directory of Greater New York." The libraries listed in the Directory include specialized libraries of United States Government agencies, such as the Department of Energy; specialized scientific and technical libraries; and various engineering libraries.

The Library Awareness Program has been strictly focused and confined to scientific and technical libraries only in the New York area. The active approach of the Library Awareness Program, which alerts librarians generally of the Soviet intelligence service threat, should not be confused with reactive interviews of librarians in other areas of the United States which are in response to an investigative lead involving a specific Soviet national. The FBI has investigated contacts between Soviet nationals and American citizens, regardless of where the contact occurred or the profession of the person contacted. That has included contacts elsewhere in the United States with libraries under certain circumstances. Since the FBI has no way of ascertaining the purpose of a Soviet contact or particular Soviet interest without interviewing those contacted, these reactive interviews are an absolute necessity in fulfilling our counterintelligence responsibilities.

On January 14, 1988, Special Agent Thomas E. DuHadway, Deputy Assistant Director of our Intelligence Division, addressed a meeting of the National Commission of Libraries and Information Science in San Antonio, Texas, regarding the FBI's interviews of librarians in the New York City area. During his presentation, Mr. DuHadway provided the Commission members with examples of the methodology utilized by the KGB in its program directed at America's scientific and technical libraries. This program includes the obtaining of unclassified, but in many instances, sensitive information; the identification and development of library sources; the initiation of background investigations on librarians; the ongoing quest to place a recruited librarian into a library or technical information clearinghouse where there is access to classified information; and the manipulation of university libraries in a variety of ways.

By alerting potential targets to the SIS threat, the FBI seeks to diminish the severity of the threat and neutralize the ability of SIS officers to selectively target America's specialized scientific and technical libraries, while they are attempting to recruit unsuspecting librarians, students, professors and scientists.

The FBI's objective is to thwart this activity by endeavoring to educate, on a limited basis, knowledgeable individuals in these libraries to familiarize them with this hostile intelligence threat. I want to assure you that we make every effort to ensure that these contacts with librarians in no way interfere with the academic freedoms or First Amendment rights of our Nation's citizens. Although we solicit their cooperation, it is the personal right of every American to decide if he or she wishes to talk with the FBI about foreign counterintelligence matters.

Dr. David R. Bender

I am deeply disturbed by some public reports and comments that would portray in a negative light those who have decided to assist the FBI in the implementation of its foreign counterintelligence responsibilities. I do not share the viewpoint that the reputation of any American citizen or any organization is cast in doubt through cooperation with the FBI. If a majority of the American public were to perceive that cooperation with the FBI is unfashionable and unnecessary, then our efforts to carry out our mandated responsibilities would be much more difficult.

As was stated in the article you cited in The Nation, the term specialized libraries association was used by the FBI in a "generic" sense. The FBI has used this term largely because the libraries contacted by the Bureau are identified in the Special Libraries Directory (supra) and because the vast majority of librarians contacted were very receptive to the FBI's explanation of the objectives of our contacts. The technique of alerting individuals to the possibility of becoming a Soviet target is not unusual. We do likewise with corporate executives and their employees involved in defense-related industries.

If you have any other questions about our contacts which I have not addressed, Mr. DuHadway would be happy to discuss this matter with you further. Please feel free to call him directly at telephone number (202) 324-4885.

Sincerely yours,

William S. Sessions
Director

PRESS RESPONSE
September 18, 1987

RE: FBI CONTACTS OF NEW YORK LIBRARIES FOR
FCI PURPOSES

The FBI is responsible for countering the intelligence gathering efforts of hostile foreign intelligence services. The damage being done to our country by such foreign intelligence services is substantial. The FBI's Foreign Counter Intelligence investigative efforts encompass a variety of approaches, all of which are within U.S. Attorney General guidelines and U.S. laws.

The FBI has documented instances, for more than a decade, of hostile intelligence officers who have exploited libraries by stealing proprietary, sensitive, and other information and attempting to identify and recruit American and foreign students in American libraries. The FBI therefore, in an effort to thwart this activity, is endeavoring, on a limited basis, to educate knowledgable individuals in specialized libraries to this hostile intelligence threat.

The FBI has historically depended upon the American public's assistance in carrying out its investigative responsibilities. The FBI has absolutely no interest in interfering with the American public's academic freedoms or First Amendment rights.

Special Libraries Association

1700 Eighteenth Street, N.W.
Washington, D.C. 20009
202/234-4700

CHRONOLOGY OF MEDIA COVERAGE
OF FBI LIBRARY AWARENESS PROGRAM

"FBI Sued Over its Program to Catch Spies in Libraries," Chronicle of Higher Education, June 8, 1988, pg. A-2.

Editorial Cartoon, Washington Post, June 7, 1988.

"Stalking Spies in Libraries Triggers Suit Against FBI," Washington Post, June 3, 1988.

"ALA Executive Board Tackles FBI and Other Issues," Library Journal, June 1, 1988, pg. 31.

"Library Groups Protest FBI's Efforts to Recruit Staff Members to Spy on Agents of Soviet Union," Chronicle of Higher Education, June 1, 1988.

"Talk of the Town," The New Yorker, May 30, 1988, pg. 23.

"Spying in the Stacks," Time, May 30, 1988, pg. 23.

"Soviet Espionage Efforts Have Targeted U.S. Research Libraries and Staff Since 1962, FBI Charges in Report," Chronicle of Higher Education, May 25, 1988, pg. 1.

Editorial Page, USA Today, May 24, 1988.

"FBI Recruits Librarians to Spy on 'Commie' Readers," Wall Street Journal, May 19, 1988.

"Longtime Soviet Espionage Effort Targets U.S. Libraries," Washington Times, May 18, 1988. pg. 6.

"FBI Spy Program Bothers Librarians," New York Times, May 15, 1988, Section 12L1 (Long Island) pg. 12.

"I Was a Bookworm for the FBI," Art Buchwald, Washington Post, April 28, 1988, pg. C1.

"FBI Presents 'Library Awareness' to NCLIS at Closed Meeting," Library Journal, April 15, 1988, pg. 16.

"The FBI's Invasion of Libraries," Nation, April 9, 1988, pg. 1.

"Librarians Want FBI to Shelve Requests About Foreign Readers," Washington Post, March 27, 1988, pg. 3.

"Academic Librarians Must Oppose Federal Surveillance of Their Users," Chronicle of Higher Education, March 23, 1988, pg. A48.

"FBI Looking to Recruit Librarians as Spies," Daily Collegian (Pennsylvania State University), March 21, 1988.

"FBI Official Defends Contacting Libraries to Counter Foreign Intelligence Efforts," Daily Report for Executives (BNA), February 26, 1988, pg. A8.

"FBI Spying on Library Visitors," The Telegraph Agency of the Soviet Union (TASS), February 25, 1988.

"FBI Asks Librarians to Help in the Search for Spies," Philadelphia Inquirer, February 23, 1988, pg. 1.

"Harvard and City University of New York Voice Opposition to FBI Snoopery," Library Hotline, November 2, 1987, pg. 1.

"FBI Agents Asks NY Librarians to Spywatch," Library Journal, October 15, 1987, pg. 12.

"Librarians Are Asked by FBI to Report on Foreign Agents," New York Times, September 18, 1987, pg. 1.

Special Libraries Association

1700 Eighteenth Street, N.W.
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SPECIAL LIBRARIES ASSOCIATION

--In Summary--

- Founded 1909 by John Cotton Dana
- 12,000 members in the United States, Canada and Europe
- 55 Chapters (geographic)
- 28 Divisions (subject interests)

. The Special Libraries Association is an international professional association of more than 12,000 members who work in special libraries serving business, industry, research, government, universities, newspapers, museums and institutions that use or produce specialized information.

. MISSION: To advance the leadership role of special librarians in putting knowledge to work in the "information society."

. PUBLICATIONS: SpeciaList is SLA's monthly newsletter. Special Libraries is the Association's quarterly journal.

. SERVICES to members include a Professional Development Program, an Annual Conference, Winter Education Conference, Government Relations Program, Public Relations Program, Serial and Non-Serial Publications, and SpeciaLine (employment hotline).

. SLA is governed by a 14-member Board of Directors elected by the membership. A Chapter Cabinet representing SLA's 55 chapters and a Division Cabinet representing the Association's 28 divisions voice the concerns of chapters and divisions.

. SLA has a staff of 30 located at Association headquarters in Washington, D.C. Staff leaders include:

David R. Bender, Executive Director
Richard E. Battaglia, Associate Executive Director
Beth Cobb Dolan, Assistant Executive Director,
  Administrative Services
Kathy Warye, Assistant Executive Director,
  Professional Development
David Malinak, Director, Communications
Sandy Morton, Director, Government Relations and Fund Development
Alexandra Walsh, Director, Publishing Services
Tobi Brimsek, Director, Research and Information Resources

For additional information contact: Special Libraries Association, 1700 Eighteenth Street, NW, Washington, D.C. 20009 - (202) 234-4700

Mr. **Edwards**. Does the gentleman from Wisconsin, Mr. Kastenmeier have any questions?

Mr. **Kastenmeier**. Two questions. I take it there are different sorts of libraries. The Association suggests there are research libraries, special libraries, and I suppose there are general public libraries, maybe other industrial libraries.

Could any of you tell me what the general groupings are of libraries? Not specifically what they do, but there are research libraries, associations for research libraries. There are special libraries.

What other general classifications of libraries might there be?

Mr. **Webster**. There might be, I guess you could characterize them as mid-sized and smaller academic study libraries. They would have instructional support. Whereas a research library would be very large, encompass multiple goals, including research graduates or graduate instruction as well as undergraduate instruction.

Besides research libraries and academic libraries, there are libraries that support high schools, secondary education. There would be, of course, public libraries of a whole range of size and character. There would be industrial or special libraries, which are represented here today. And there would be libraries from Government agencies of significant size and a range of characterization.

Mr. **Kastenmeier**. I suppose one can differentiate access to these various libraries. Obviously, public libraries and academic libraries and research libraries are generally open to one and all. There may be some question about who can withdraw books or some sort of nexus has to be established.

Are some of these libraries limited-access libraries? Might any of the libraries include classified information?

Mr. **Bender**. Some of the libraries would be limited access. All libraries have in them proprietary materials, and would have a procedure established with that organization of who could have access and how materials could be borrowed.

All of the activities in those libraries would be out of the scope of what the FBI Library Awareness Program is. Many of these would be in contractual areas with people working on contracts with the Government. Others would be the Fortune 500, the Fortune 1000, so on. These would be secured by themselves.

Our work with our own membership in the scientific-technical community raises a separate issue from what our public access or public statements are on this issue.

Mr. **Kastenmeier**. If an agent of the Federal Bureau of Investigation or indeed any law enforcement officers wanted specific information from any of the libraries or librarians therein, it is your position they should obtain appropriate process of law, whether it is a warrant or subpoena or something else; is that correct?

Mr. **Webster**. That is correct.

Mr. **Schmidt**. That would be the requirement of a law in your State, sir.

Mr. **Kastenmeier**. Let me ask you this: Would you have any problem, where an agent of the Federal Bureau of Investigation came into your library, assuming for this purpose, at least, sort of general access, and sat at one of the tables and took notes themselves, did not ask anything of the library itself, in terms of cooperation? Would that be a problem?

Mr. **Bender**. Within the special libraries community, it would not be, as long as it is not a collection that is closed to the general public.

We have even gone so far as to open membership to an FBI agent interested in joining a local chapter to find out more of what was going on within the Association.

I think we are quite open to procedures as long as they are following what any other patron would do within the establishment.

Mr. **Kastenmeier**. Let me, I take it that may be somewhat different than how one of the other associations of library groups might respond.

Would you in attendance—I take it because you indicate you would not necessarily cooperate or have your librarians cooperate with an agent except in terms of a request duly authorized by law?

Mr. **Webster**. Our concern here, of course, is with the privacy of library users and their access and use of information. Our concern in this instance is that the FBI is recruiting library staff to in fact do some work for them. That is a violation, we feel, of State statutes and the principle of privacy.

We, of course, most of our libraries, since the majority of them are publicly funded, are open to citizens to use as they want to use. Thus, we do not restrict their presence or their access to the information that is present in the library.

Mr. **Kastenmeier**. That would include an agent of the FBI, even if the librarian had a suspicion that the principal interest of the agent was not books?

Mr. **Webster**. I think this goes again to the heart of the matter. It is not up to the library staff to question the motives of library users. Our interest is in encouraging, facilitating the access to and use of information.

We would assume that if an FBI agent was in our reading room, that the person was there to use our resources in pursuit of an educational or resource objective. If they were doing something else, it would not be our position to ask them what they were doing or to question those motives. That is their business, and it is not our business.

Mr. **Kastenmeier**. The invasion of privacy issue cuts different ways. We have a bill in my subcommittee which goes to video shops. We protect video shops, or forbid them from disclosing which video cassettes you may have rented. That goes back, as you will recall, to the Judge Bork nomination case where it is alleged that somebody accessed to what videos Judge Bork had, and watched.

So in a sense, there are sensitivities broadly about privacy and protection, particularly of any institution, even the private institution that has information concerning an individual that might otherwise be made public, such as your library lists and who borrows what books, I assume, and the same sort of protected, should be the same sort of protected information.

Mr. **Webster**. Exactly.

Mr. **Kastenmeier**. Thank you, Mr. Chairman.

Mr. **Edwards**. Mr. Kastenmeier, you can make quite a case against somebody by making a list of all the books that he or she has taken out, or the video tapes, and put that into your report on this person and try to figure out what kind of a person this was. It would certainly chill the desire of people to take out books or to go to a video store.

Mr. Conyers?

Mr. **Conyers**. Thank you, Mr. Chairman.

I just arrived back in Washington. I am sorry I missed the beginning part of the testimony.

I feel very strongly about this hearing. I commend the chairman and the witnesses I have heard so far.

I think that unless this issue is taken in the backdrop of other national security activities, particularly including the FBI, there could be a tendency to get a very episodic view of what the FBI is doing.

In other words, if this were the only thing that were happening that would be disturbing in terms of invasion of the rights of citizens and of the outrageous conduct that goes on in the name of national security, you could approach it from a different attitude. But from my point of view, as one who happens to read out of the way and not in the public domain, generally, what are not popular issues, I feel very strongly about this.

We are looking at the Federal Bureau of Investigation that comes out of the 1970s with the COINTELPRO, the Fred Hampton murder in Chicago, the bugging and surveillance of Dr. Martin Luther King. These are just things I can think of.

This committee had hearings about their overreaching in trying to find out about corruption in a Cleveland court. We have the ABSCAM case, cases which I thought were an outrageous way to try to find out about corruption in the Government.

We recently, this same subcommittee, has been hearing about a black FBI agent who revealed that he was in fact the subject of terrorism within the FBI in a number of duty stations with the knowledge of FBI superiors.

Now, when you put all that in back of the Iran-contra hearing, which again revealed the excesses of which many people in the intelligence portion of our Government would turn to, and then we now come together to find out about citizens and nonsensitive, or at least unclassified, information, we are being beset upon by an intelligence agency that has gone far, far afield, and in my judgment has never come back to limiting these excesses. They have gone on throughout my experience in trying to oversee their activity.

As a matter of fact, the Hispanic agents, 95 percent of them, are now in a historic class action suit, based on racial discrimination, against the FBI, the first time this has ever happened.

What I am suggesting to you is that this, taken separately from all of these lists of things of which I only name a few, is one kind of a matter. When you take it in conjunction with all of the excesses, it seems to me that we have a very, very serious situation.

I would like to explore your reaction to that particular evaluation, and I realize that you perhaps were not told by the organizations that your represent how to handle that kind of question, and

I recognize that it would be coming from your own personal feeling.

But it seems to me that if we just look upon this as a little travesty that should be corrected, a little slap on the wrist, and a warning, "Fellows, cut it out," it seems to me to miss the point.

We have a national security crisis here of great dimension. And I would like to see if there is any support for it among the witnesses here today.

Mr. **Webster**. I might add that we are very concerned with this effort in part because it does parallel other initiatives recently undertaken by the U.S. Government.

Members of the library and information communities have expressed alarm about the Government effort to control access to what might be described as unclassified but sensitive information in Government and private data bases. The alarm has grown out of executive policy directives as well as actions and public statements by military and intelligence agency officials describing their concerns about who has access to certain Government and private data bases.

There have been efforts beyond this specific program to limit the ability of different individuals to get a hold of information that is unclassified but viewed as sensitive. That is, of course, of great concern, a concern in part from this philosophical and legal point of view, but also there is a very practical element of the cost of making these efforts for the amount of intelligence and the utility of intelligence gained. I think it is a very expensive process simply from a practical point of view.

Mr. **Schmidt**. I think that your comments, Congressman, strike to the heart of the first principle, if you will, and that is given the society that we have, that we grew up in and have come to love, even with its imperfections, is the society going to be made more secure by being more closed or is it more secure by remaining the open society that it has been?

And I suggest that the brief that can be recited, represents a point of view which our history does not share.

Mr. **Conyers**. Thank you.

Mr. **Bender**. Likewise, it seems only with open access to resources can you develop an informed citizenry that can both govern itself as well as take care of its daily needs. And supporting the professional access of that to the confidentiality of records; it is only one way of insuring that the user will have this broad access to this information. As well as the Federal Government, State government and local governments, have put tremendous amounts of money into the purchase of resources for use by the people of this nation. It seems like any other agency who is trying to restrict that is running counter to what the overall purpose and development of libraries are within this country.

Mr. **Conyers**. Thank you.

Mr. Chairman, I have one other question. And before I go to it, I want to tell you what I think about a classification called sensitive but unclassified.

Now, here again, if you take this out of its context, you can imagine that something could be sensitive but unclassified. But if you take it in terms of the examinations that have gone on in the Congress, where we have tons of material that are overclassified, and there is a great move on, I understood, to declassify some of this, everything that comes off of a computer is subject again to some kind of classification.

The tendency toward overclassification has been revealed as horrendous. So for us to go back and now find still yet another area of sensitive material that somehow escaped all of the classification possibilities that exist, I find really ludicrous.

But more seriously, very dangerous, because then they are saying, well, we may have a thousand classifications, but there are some things that could be sensitive that deny classification and so therefore we are going to create another classification for them. And I strongly object to that whole kind of mind set.

Now, the question that I close with is for you to help us describe what kind of remedy ought to occur here. The FBI is here. They read all of our discussions and so forth. They will have, as a matter of fact we have the statement of the FBI representative that will be coming on shortly. But what does it all mean? I mean, we are talking about just in this room, we are representing everyone in America's right to have access to a library without having the Federal cops potentially looking over your shoulder. That is what is going on in room 2237.

This is a tremendously significant resolution of an important problem in democracy. And I sit here saying well, what do we want them to do now that you have laid it out and *The Nation* and others, our staff has worked on this, and fine, OK, we will listen to the FBI and then what do we want to have happen?

Well, I suggest to you that we are—that the Congress, even under the strong oversight controls exercised by our chairman and others who have shared this responsibility, we are in such a limited position that I think we ought to really review what our relationship is to the subject in a realistic way. Because a lot of people in your organizations are going to say when they read your statements and what this committee said, they are going to say, "Well done, ladies and gentlemen, you are doing a great job. The committee spotted this, they held hearings, your organizations came forward, made absolutely excellent testimony to which very few Americans would disagree, we really socked it to the FBI that Monday afternoon. I mean, they really got it."

But did they get it? What is the consequence of this hearing? And I say this as one who tries to sit in these hearings with a view of changing things because if it is just a matter of coming up and taking your blows, you send one person up from the agency and he gets worked over a little bit verbally and he goes back in the afternoon and, what is it that we can do here? We are not the appropriations agency.

And so I am thinking about—this is a matter important enough for Judge Sessions to not only attend in a subsequent hearing, but to announce a whole program that would extirpate this noxious activity completely out of the FBI, to repudiate it in the widest audience possible, to give Americans the assurance that not only will it not happen again, but that he will take exemplary steps to make sure that nothing like it in related overreaching actions in the name of national security happens.

It seems to me that unless something very dramatic happens, the best virtues of this hearing and your excellent testimony may all just be another episode in which we move on to something else.

Mr. **Webster**. I certainly agree with you. I think strong action has to be taken.

We think the program needs to be stopped first and fundamentally. The FBI should be called upon to publicly acknowledge their willingness to suspend the program.

I think secondly, there is great value in a growing of public awareness, of what the agency is doing and how it is doing it. I think getting a clear picture with some of the contradictions and oversimplifications, and lack of specificity eliminated from that picture, it would be very useful for the public to have a better understanding of what the FBI is doing.

Beyond stopping the program, certainly and having a better public awareness of this pattern of activities and the significance of this pattern of activities, I, like many others, feel that there is, there may well be a stronger oversight action that might be needed in order to assure ourselves that the FBI does not initiate these programs of aggressive surveillance outside the scope of their responsibility.

Mr. **Bender**. I would like to support the words and echo what Mr. Webster said. We do oppose these activities and I think that one of the problems that we have in addressing them is trying to find out what they actually are.

As I indicated, that through two letters to Director Sessions, the association still has not received satisfactory answers or a complete description of what the program is all about.

I think that there is a process that the FBI can take in the subpoena process when it is so warranted. But on the hunting they are doing in the guise of security, it simply is a witch hunt for—they don't even know what. And until they can map out or lay before everyone what the process is and the object of their program, it seems like it is a futile effort and it seems like it will continue to grow, and that they are going to continue doing what they want and continue to expand into areas which really are not in the face of national security, and I think that it is very difficult for them to justify overall within the FBI that they are in the guise of national security when it is unclassified information, most anyone can walk into any library and have access to most of the materials that our members have been questioned about.

It has nothing to do with proprietary material or classified or whatever. As I said previously that is handled in a different fashion. So it would be just good to know what some of the processes or what the program is about and I believe that they do not know that themselves.

Mr. **Conyers**. Thank you.

Mr. **Edwards**. The gentlewoman from Colorado. Mrs. Schroeder.

Mrs. **Schroeder**. Thank you, Mr. Chairman. I just want to thank the witnesses for, I think, very eloquent testimony and really helping us get some insight into what this feels like. And it is kind of ironic that at the time we are applauding the FBI for the wonderful work they have done in this Pentagon scandal, keeping it secret, the money that way is spent more efficiently than running around libraries on a fishing expedition.

I would just like to pursue what Congressman Conyers said and that is I hope as we get more specific evidence about what this was really all about, you will feel very free to let us in on the committee what a remedy might be other than just air it. I mean airing it is one thing, but trying to make sure that we don't have these types of things happen in the future, I think, is terribly important.

We don't need Federal nannies looking over everyone's reading list to see whether or not they get an A or a B or an F or get on a list. I don't think that we want great lists in computers everywhere. So when we hear more about what it really was, we would appreciate your feeling free to come forward and tell us, too, if you think there is something we should do or something more that could be done, and I thank you.

Mr. Edwards. Thank you, and thank you, Mr. Conyers, for a very valuable dialogue there.

Well, I think that any of us who have been around for awhile know that so many men and women who have contributed so much to our country and to the countries of the world have done their work in the public library, such as the New York library.

Some of the great works of literature and poetry that we treasure today were written by men and women who spent many long hours, years, in libraries, and one wonders what is going to happen to people who write controversial, creative works if they think they are going to be looked at by an FBI agent. What will happen to progress in this country?

I know I wouldn't. If I was going to write a book on a controversial subject and I didn't have any money, in the past I could always go to a public library to go and have quiet days and hours and months of solitude and references that I could get for nothing. But if I am going to be watched by a Government agent and reported by library employees who are working for the FBI, isn't that going to do great damage to the creative work, the creative impulses of Americans and foreign people who have great talent?

It just seems open and shut to me, and this is the part that bothers me about the FBI's attitude. We try to work with them on these issues. You can't pass a law every time you find a Government agency doing something that is disturbing—that seems clear to the members of a committee or to the Congress. So what we have been trying to do, and we have been doing it for many years, is to have a dialogue on issues like this and we are having regular dialogue on this issue. The FBI is convinced that this is the right thing to do and they don't seem to understand that even though there might be some value in counter espionage, that there is no way it can be as important as the damage that can be done to our society.

They don't seem to have the least understanding of that. As a matter of fact, one of the statements that was—well, I don't get into some of the statements because the FBI, they won't be testifying here today, we were going to postpone the FBI's testimony for a day or two so we can have a chance to go over the full testimony of your witnesses and they are very, very valuable witnesses.

I wonder what we will do about this violation of State law. Does that disturb any of you that apparently there is a—there are various State laws that are being violated, but no protection to the violator, just because you give information to an FBI agent doesn't mean that State law doesn't apply. You could still be arrested, couldn't you, under State law?

Mr. **Schmidt**. That is my understanding.

Mr. **Edwards**. So you could get socked with a heavy fine.

Mr. **Bender**. But unfortunately most of the people that are being pressured in this situation do not know the State laws exist. And absence or not knowing the law is no excuse, however, a paid or a para-professional, whatever the circulation desk, being confronted by an FBI agent is an awesome situation.

And so that individual responds the best they can, not knowing that they are actually being protected by 38 State laws and the District of Columbia.

Mr. **Schmidt**. Mr. Chairman, if I may, to pick up on your comment there and Congressman Conyer's search for the remedy, I can't help you with that search. I sense in Congressman Conyers and in the chairman some frustration as a function of their prior dealings and dialogue with the Bureau.

It is clear to me that the fact that the chairman has elected to have this hearing will serve a useful function, not only in the flow of information to the witnesses and staff, but also those of us here at the table are going to be able to use this occasion as a way to raise the consciousness of our professional communities about the ethical obligations that they have and the local and State statutory environments in which they do the work that they do. And while that is not per se, a remedy, vis a vis the Bureau, it will be helpful to the citizenry as a whole in any event.

Mr. **Edwards**. We don't have any minority members here but we do have a minority counsel. Do you any any questions?

Mr. **Slobodin**. Yes, I do. Thank you, very much.

I wanted to ask a question for Mr. Webster. You indicated in your testimony that if the Bureau desires information about an individual who is the subject of a legitimate investigation it may obtain a court order for the material pursuant to applicable law. And then I am looking at the code of ethics for libraries and it says that libraries must protect each user's right to privacy with respect to information sought or received and materials consulted, borrowed or required.

My question is, suppose that the FBI did get a court order pursuant to the applicable law and asks the library to furnish that information. Would it be ethical for the librarian under those circumstances to provide the information?

Mr. **Webster**. I believe so. I think that procedure has been followed in at least one instance here as part of the FBI Library Awareness Program. In their approach to the State University of New York at Buffalo, there was a request for that type of information. When refused, they secured a subpoena and then they, I believe they provided it under the requirements of that subpoena.

Mr. **Slobodin**. I guess what I am trying to understand is how would it be ethical under that ethical guideline there? Because I don't see, it says the librarians must protect each user's right to privacy, I don't see any exception there. Why would it be ethical under that situation where the information being requested is pursuant to a court order?

Mr. **SCHMIDT**. The committee that wrote that statement has deliberated precisely the point that you have raised and they have concluded that if a librarian or library employee is presented with a court order in good form from a court of competent jurisdiction, that it would be ethical and indeed, in most, if not all of the 37 States and the District of Columbia that I know about, they would be obligated under law to provide the information that was sought.

Mr. **SLOBODIN**. If there is a——

Mr. **SCHMIDT**. You will find the information attached to my testimony that outlines the policy on confidentiality adopted by the American Library Association and suggested procedures for implementing it that your concern is accommodated.

Mr. **SLOBODIN**. I am trying to get an understanding of that library and library user privilege. Why, if it is founded on similar principles, as a lawyer-client privilege, or physician-patient privilege or like a journalist's First Amendment privilege, why wouldn't it be ethical for a librarian to refuse to give information where it is pursuant to a court order if it is founded on similar principles? I am trying to get a handle on whether the librarian privilege is the same as other privileges or whether it is different with respect to other kinds of privileges.

Mr. **SCHMIDT**. I am aware of some reporters standing fast on matters of this kind, flying in the face of applicable law and taking the sentence that the legal system hands them as a consequence of their position. I expect the same could be the case of a librarian or a library employee even in the context where a provision explicitly existed in the State law for disclosure. They could elect to deny the order in what they viewed as a higher ethical obligation and suffer the consequences of that position if it came to that as reporters and others have before them.

Mr. **SLOBODIN**. OK. And this may be a naive question on my part, but it appears that this program, Library Awareness Program, has been around since 1982, why are these issues gaining such visibility? Perhaps these issues have been raised for 20 years or so, but it seems that they are at another level of visibility. Why now?

I guess what I am asking is why has it taken 25 years until it has gone to the stage of a congressional hearing?

Mr. **WEBSTER**. I think part of it is the securing the information on these activities. This has been a program that is not well understood, even to this moment. It has been a program that has involved the libraries in various parts of the country being subjected to requests frequently without a way of tracking on those requests or the imposition of the FBI on the institutions.

In part it is because we simply haven't known that it has been this extensive, this broadly based, this formal as to be called a program, a Library Awareness Program. Availability of this information, once it has come to light has prompted a very strong and vocal response from all parts of the profession as well as our parent institutions. The universities have expressed the same concern. The minute that we have learned about it, we have been quite vocal. And upon investigation we have discovered that, in fact, it does have a history. A history that is much richer, much more confounding, if you will, that we had thought.

Securing information on the program has been very, very difficult for us, even when we have had concrete information on which to go from.

Mr. Slobodin. Another item, The Washington Post in an article on March 27 of this year indicates that there seems to be a split on this National Commission on Libraries and Information Sciences where they were addressing this issue. And I believe there was a transcript from that meeting from a request filed by the Bureau of National Affairs indicated that some of the members supported the program, the Library Awareness Program and one member here, Gerald Newman, chairman of the panel, said "We have the responsibility . . . of being sure there's freedom of access of information, but I think we have another responsibility in upholding the Constitution of the United States, which is probably a higher . . . responsibility, and that includes citizens protecting our democracy and our republic."

I wanted to get your reaction to that.

[*The Washington Post* article follows. The transcript of the meeting of the National Commission on Libraries and Information Sciences is reproduced in the Appendix.]

Librarians Want FBI to Shelve Requests About Foreign Readers

Agency Faulted for Asking Information About Book-Borrowers

3/27/88 p A3

By Bill McAllister
Washington Post Staff Writer

When University of Maryland librarian Herbert N. Foerstel discovered that an FBI agent had visited one of his libraries to demand information about the reading habits of individuals with "East European or Russian-sounding names," he was furious.

"The FBI never makes an appointment. You never know they're coming," he said. "They never speak to a supervisor . . . . They contact the lower-level staff, flash a badge and disappear."

Incidents like that at College Park have galvanized members of one of the nation's quiet professions—librarians—into a boisterous lobby, demanding that Congress restrict a highly controversial program designed to enlist librarians in identifying and tracking the readings of foreign diplomats.

The Federal Bureau of Investigation said the foreign envoys may be secretly ferreting details of American technology from unclassified publications and recruiting spies.

The librarians call the FBI's "library awareness project" a clumsy attempt to force them to break local laws protecting the confidentiality of library users over information that is available to anyone in this country.

"I really don't see how a free society is able to say that technical journals have to be hidden from people with foreign-sounding names," said Foerstel. "I don't think it's going to work."

Rep. Don Edwards (D-Calif.), chairman of the House Judiciary subcommittee on civil and constitutional rights, apparently agrees. At a recent appropriations hearing, Edwards chastised FBI Director William S. Sessions, saying that the program might scare people from libraries.

"Let me tell you that I'd be frightened if I . . . was afraid that the librarian would report me to the FBI for reading a particular book," Edwards said. "Anything that chills the desire, the interest of Americans . . . in going into libraries is a very serious matter."

Sessions agreed to review the nearly 15-year-old project, but he defended it as critical to his agency's counterintelligence program. Americans must understand that libraries are "where people are being recruited for foreign and hostile intelligence sources," he said.

Until librarians in the New York City area publicly complained about the program in the fall of 1987, it was a little-noticed part of a larger FBI program designed to warn defense contractors about Soviet spies. Since then, the FBI has acknowledged contacting about 25 libraries, mostly technical or scientific ones, in New York and Washington.

The agency won't discuss which libraries have agreed to cooperate and which have refused, but the American Library Association, which opposes the program, says it has documented about 12 rejections, including the Maryland case and a similar approach at George Mason University in northern Virginia.

The association considers the confidentiality of library records a matter of ethics. Its spokesmen say the FBI's program is a costly, ill-conceived effort designed to transform library clerks into low-level intelligence agents.

FBI officials say that is not the case. In a closed meeting in January with members of the National Commission on Libraries and Information Sciences, a federal advisory panel, Thomas DuHadway, a deputy assistant FBI director for intelligence, portrayed the project as very successful and appealed for support.

"We don't want you to be a spy," DeHadway told commission members. "You're not trained to be a spy.

"If in the legitimate course of your business you see something you think we ought to know about, please tell us," DuHadway added. "And you should know from an educational standpoint that there's a possibility you could be an individual target of a recruitment . . . ."

Foerstel said the approach an agent made in the fall of 1986 at the University of Maryland chemistry and engineering libraries that he supervises was more direct.

"The first question was: 'Do you have any foreigners using the library?' " Then, "With East European or Russian-sounding names?" Finally, the librarians were asked whether the individuals had asked for any computer searches and for the areas in which they were interested, Foerstel said.

The librarians referred all the questions to Foerstel, who said he has had difficulty communicating with the FBI about the issue. University officials united over the incident and issued a formal policy declaring that no information about the borrowings of library patrons will be revealed without a court order, he said.

FBI spokesmen declined to discuss Foerstel's statements, saying, "The main purpose of these contacts has been to educate the librarians to the activities of the Soviet intelligence services and to seek the librarians' help."

The number of people considered "the potential 'hostile presence in this country"—more than 33,000 communist bloc diplomats, students and visitors—make the public's help crucial, an FBI statement said.

But the librarians say the FBI policy flies in the face of laws in 32 states, including Maryland and Virginia, which make confidential the borrowings at public libraries.

Not everyone associated with libraries believes that the FBI's requests are improper. When DuHadway, the FBI's No. 2 counterintelligence expert, appeared before the library commission, he found strong support among some members of the presidentially appointed panel. A transcript of the meeting recently was made public in response to a Freedom of Information request filed by the Bureau of National Affairs, a Washington publishing company.

"We have the responsibility . . . of being sure there's freedom of access of information," said Jerald C. Newman, chairman of the panel and a North Woodmere, N.Y., business executive. "But I think we have another responsibility in upholding the Constitution of the United States, which is probably a higher . . . responsibility, and that includes citizens protecting our democracy and our republic."

Added Wanda L. Forbes of Clover, S.C., "We could do with a few less librarians who are so naive in those things."

Others on the federal commission expressed concern and puzzlement, however, over DuHadway's remarks. "There seems to be a genuine lack of understanding about this issue," said Patrice McDermott of the American Library Association's Office of Intellectual Freedom.

In the meeting, DuHadway alternated between appeals for help from the nation's librarians to assurances of support for the privacy laws that protect library records in many states and the tradition of openness of American libraries. The agent said the FBI is not interested in blocking the access of diplomats to U.S. libraries or with their access to classified materials in libraries.

"There are certain sections of specialized libraries that are supposed to be restricted," he said. "And those are some of the areas that we find our Soviet friends out mucking about in. They really shouldn't be there. But . . . if the librarian wants to give them access to that kind of information, that's her choice."

DuHadway opened his presentation citing the massive intelligence efforts of Soviet bloc and Chinese governments in the United States. He acknowledged that "90 percent of what the Soviets collect in the U.S. is free, available and unclassified."

". . . We don't have any concern about that, but we do like to know who's collecting and what they are collecting, and that's a burden that's been put on us by presidential directive and law and we try to do that."

The FBI official said that while Soviet diplomats have the right to enter American libraries, intelligence officers in their diplomatic missions don't do so for fear of being identified. "So that's what we're trying to do too in, first of all, identify these people: Who are the legit diplomats, who are the spies?"

To support his case; DuHadway cited the case of Gennadi F. Zakharov, a Soviet citizen employed by the United Nations who sought to recruit a student at Queens College in New York, allegedly for "research." From initially requesting that the student copy reports for him, Zakharov progressed to instructing him to steal microfiches from the University of Connecticut's library, the FBI official said.

"You send them into the library, you get them used to doing things for you . . . . It's a very slow progression . . . . And then you work him up to the classified information," DuHadway said.

That's what many librarians say puzzles them. Many, like Foerstel, say their libraries contain no classified material. "As a public library, our doors are open to anyone who walks in off the street," he said.

Mr. WEBSTER. Yes, I do have a reaction to that. There has been a resolution passed by NCLIS which contradicts that position. The resolution, if I might read it, states that "Whereas the fundamental dedication of the National Commission on Libraries and Information Science to open access and the right of privacy has never been stronger, now, be it resolved and reaffirmed it is, one, uncompromising commitment to the basic principal of open access to information for all. Two, its equally strong commitment to the right of privacy for all users of our nation's libraries and, three, its unequivocal support of First Amendment rights."

So, I think it is a very strong and definitive statement.

Mr. SCHMIDT. I might note that statement, which was approved by the Commission Wednesday last, was unanimously adopted. And I would be willing to speculate that the reason for an apparently different posture between January 14 and June 15, has to do with the unrestricted flow of information, pro and con on this program, leading the commissioners to conclude that they ought to take the position that they did last Wednesday.

Mr. SLOBODIN. OK. Thank you very much.

Mr. EDWARDS. We would like to move on. I might add that this subcommittee did not know that this program existed until just a few months ago. If we had learned about it in 1965, or 1966, or 1967, we would have certainly done what we have done and immediately called the FBI to account.

Mr. Dempsey.

Mr. DEMPSEY. No.

Mr. EDWARDS. Thank you, very much. The panel has been very helpful. We appreciate it very much.

TESTIMONY OF PAULA KAUFMAN, ACTING VICE PRESIDENT, INFORMATION SERVICES AND UNIVERSITY LIBRARIAN, COLUMBIA UNIVERSITY, NEW YORK AND HERBERT N. FOERSTEL, ENGINEERING AND PHYSICAL SCIENCES LIBRARIES, UNIVERSITY OF MARYLAND

Mr. EDWARDS. The last panel to testify today is also welcomed: Paula Kaufman and Herbert N. Foerstel.

Would you swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth.

PANEL. We do.

Mr. EDWARDS. Thank you. Paula Kaufman is acting Vice President, Information Services and University Librarian, Columbia University in New York. We welcome you, Ms. Kaufman, and you may proceed. Without objection both of your excellent full statements will be made part of the record and you may proceed on your own time.

Ms. KAUFMAN. Thank you, Mr. Chairman. I want to extend my appreciation to you for your efforts in holding these hearings and for the opportunity you have given me to appear before you today.

On June 7, 1987, when I was the Director of the Academic Information Services Group at the Columbia Libraries, two New York-based FBI agents attempted to gain the cooperation of a support staff member in our Mathematics/Science Library to report to them on the activities of foreigners who use that facility. The conversation was interrupted by a member of our professional librarian staff and the agents were sent to talk with me. I met with them on June 11. At which time they explained to me that they were conducting a Library Awareness Program in New York City, the purpose of which was to alert the librarians to the possibilities that foreigners from countries hostile to the United States were using our library resources to piece together data which would yield information dangerous to our national security.

They focused technically on the journalists which we subscribed to in that library and explained to me that these foreigners could piece together bits of information from the articles that appeared in these publications that would threaten our national security. They asked us to report on who was reading what, and I refused to cooperate with them.

They then changed their tactic and explained to me that libraries were popular places in which these foreign intelligence agents recruited both students and librarians who they described as being traditionally poorly paid to help them gather their information and they asked that we report to them on any foreigners from countries, again, hostile to the United States, particularly the Soviet Union, who were suspicious.

I refused to cooperate with the programs, citing that this would be a violation of university policy, New York State law and the First Amendment guarantees of privacy. Subsequent investigations indicate that this program has been carried on for many years throughout the country. Though the FBI as we have heard earlier today has asserted that it has been confined to the New York City area.

If library research by foreigners is truly a threat to our national security and if libraries have been prime sources for recruiting for so long, it is difficult for me to understand why the Bureau has not made us aware of this imminent danger before. And if this threat is so wide spread, why it has not broadened the program to include other cities and educational centers.

As we heard earlier today, the program is more widely spread than we have known before. It is also quite difficult to credit the FBI's claim that hundreds of thousands of pieces of technical microfiche have been stolen from our country's libraries without any of us knowing it. We at Columbia have more than a billion pieces of microfiche and I have been a librarian for nearly 19 years, I am not at all aware that there has been any wide spread theft of materials of this sort.

Surveillance of user's activities by librarians is impractical as well as illegal. Columbia University as a United States depository library is required by law to make its collections of U.S. Government documents available to everyone, regardless of their connection with the university.

Any major university community includes significant numbers of citizens and scholars of foreign background. At Columbia, surveillance of people with foreign sounding last names and accents might well focus on some one like Abignew Brzezinski, the former National Security Advisor to President Carter, a member of our faculty and who is not necessarily known to many members of our library staff.

Furthermore, it would contravene State law which guarantees the confidentiality of borrower's record and the American Library Association's code of ethics. It seems to me our society faces a far greater threat from the loss of our basic rights of privacy and access to public information than it does from the use of unclassified material by foreign nationals in our libraries.

Any threat to our national security which results from the exercise of these rights is the price we must pay in order to remain a free and open democratic society. The right to privacy is a fundamental part of the First Amendment right for information. I support the American Library Association in calling upon the FBI to end the Library Awareness Program and to desist from recruiting librarians and staff to monitor the use of libraries.

Thank you, I will be pleased to answer any questions that you might have.

[The prepared statement of Ms. Kaufman follows:]

PREPARED STATEMENT OF PAULA T. KAUFMAN, COLUMBIA UNIVERSITY

June 20, 1988

My name is Paula T. Kaufman. I am the Acting Vice President for Information Services and University Librarian of Columbia University, New York City.

Mr. Chairman, I want to express my appreciation to you for your efforts in holding these hearings and for the opportunity you have given me to appear before you today.

On June 7, 1987, when I was the Director of the Academic Information Services Group at the Columbia Libraries, two New York-based FBI agents attempted to gain the cooperation of a support staff member in our Mathematics/Science Library to report to them on the activities of foreigners who use that facility. The agents were interrupted by one of our professional librarians, who sent them to talk with me.

These two agents came to see me, by appointment, on June 11, 1987. They explained that they were conducting a "Library Awareness Program" in New York City and that they wanted to alert Columbia's library staff to the dangers which could result from persons "from countries hostile to the United States" using our science libraries. These foreigners, they continued, could uncover information dangerous to our national security by piecing together data from a wide variety of sources to which we subscribe.

When I refused to cooperate in this undertaking, the agents tried another tactic. They explained that libraries such as ours were often used by KGB and other foreign intelligence agents for recruiting activities. Citing the Zakharov case as an example, the agents warned that students and librarians, "who are traditionally underpaid," are the primary targets of these recruiting efforts. I continued to refuse to spy on our users, explaining that such activities would violate our institutional policies, the right to privacy afforded by the First Amendment, and the laws of the State of New York. At their request I provided the agents with information about who was entitled to use Columbia's libraries. They did not press their case further. I have had no direct contact with any FBI agents since then.

After the agents left, I contacted a few colleagues in New York City to ask if they had had similar visits and to tell them about my experience. All were as outraged as I. I also informed the New York Library Association, which relayed my report to the American Library Association. Although the first press report appeared in late August 1987, it was not until the New York Times ran a front-page article on September 18, 1987 that word of the Library Awareness Program began to be widely disseminated.

Despite the information contained in the FBI's February 1988 report, The KGB and the Library Target 1962 - Present, despite arguments contained in newspaper columns such as Phyllis Schlafly's ("It's Librarians' Duty to Help Catch Spies." USA Today, May 24, 1988), despite incorrect descriptions of my previous activities and an inference by the chairman of NCLIS that I am unpatriotic, and despite the hate mail I have received since last Fall, I remain convinced that the FBI's Library Awareness Program is ill-conceived. It violates our country's basic democratic principles of privacy and the free and open access to information. The powerful words of James Madison (The Federalist Papers) still resonate: "[A] popular Government without popular information or the means of acquiring it is but the prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power that knowledge gives." The Library Awareness Program threatens to hinder and prevent the open access to information which our Founding Fathers held so precious.

The mere thought that a librarian or anyone else may be watching over one's shoulder and reporting to the government on one's reading habits conjures up images of Big Brother and creates an enormously chilling effect on all those who use libraries. The library's role in our society is to provide access to information within a context of privacy; this role has been underscored by the 38 states and the District of Columbia which have enacted laws to protect the confidentiality of borrowers' records. It is further underscored by the American Library Association's Code of Ethics: "Librarians must protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed or acquired."

In its coverage of this issue, USA Today asked seven people, "Would it bother you if the FBI were told what library books you checked out?" Doris Marvel of Plattsburgh, NY responded eloquently, "Absolutely. Being able to go to the library and read what we want is one of our inalienable rights. It's not the librarians' job to spy on people for the FBI. Their job should be about books. Nobody tells me what I should or shouldn't read." Larry Mathias of Homewood, IL agreed that the FBI may be asking librarians too much, but said, "I wouldn't have a problem with it....And if those steps are necessary to protect our national security, then they are a necessary evil."

I disagree with Mr. Mathias. These measures are an unnecessary evil. The threat to our national security posed by library users has not been demonstrated beyond question. I cannot dispute the claim that some recruiting activities may take place in some of our nation's libraries. The convenience of the location is obvious. Nevertheless, I am not at all convinced of the validity of the FBI's assumptions regarding access to sensitive information. For the record, I should note that Columbia's library collections do not contain materials which are classified, proprietary, or secret. Although our collections are maintained for members of the Columbia community, we do permit limited access to scholars from other institutions. Furthermore, as a U.S. Depository Library we are required to make that collection accessible to anyone who wants to use it. It seems terribly ironic that while one branch of the government has long maintained a system through which government-produced information is freely available to anyone, another government agency has a recently-revealed history of trying to abridge the freedom to use that and other collections.

I find the FBI's report of the theft of hundreds of thousands of items of microfiche from our nation's libraries very curious. I have been a professional librarian for nearly 19 years. I have worked at two major research libraries and in a special library in the corporate sector; I also founded and ran a business in the information industry for three years. During all this time, throughout which the FBI has apparently carried out its Library Awareness Program, I have never been aware of the wide-spread disappearance of technical microfiche documents. I do not doubt at all that foreigners have removed such materials from libraries. I also do not doubt that US citizens have removed such materials from libraries. However, I am sure that the widespread loss of hundreds of thousands of microfiche pieces would not have gone unnoticed by the library community. We are much too alert, and our networks are much too developed, for this information not to have been disseminated.

The FBI's request to me to report on foreigners using our libraries is one with which I could not practically comply, even if our institution supported such cooperation, which it does not; even if such a request did not contravene my professional ethics, which it does; even if it did not infringe upon the First Amendment and privacy rights of all library patrons, which it does; and even if it does not violate the laws of the State of New York, which it does. The academic community, indeed, American society, includes persons with a variety of backgrounds, interests, and nationalities. The FBI's definition of "foreigners" is sufficiently vague, and the environment at Columbia is sufficiently international, that it becomes patently absurd to even think about how one is to identify possible spies from among our general population. Certainly, the FBI could not intend us to report on the activities of all people with foreign-sounding names or with Eastern European accents. Zbigniew Brzezinski, for example, who is a member of our faculty but who might not be known to a library worker, could easily fit that definition. Academic institutions value and protect academic freedom, which includes the freedom to follow disparate ideas, read a wide variety of sources, and think new thoughts. To interfere in that process in any way is to interfere with the very nature of the enterprise. We should be looking for ways to acquire more materials for open use and to stop the deterioration of the materials on our shelves, rather than for ways to interfere with the use of what we already own.

It seems to me that our society faces a far greater threat from the loss of our basic rights of privacy and access to public information than from the use of unclassified material by foreign nationals in our libraries. Any threat to our national security which results from the exercise of these rights is the necessary price we must pay to remain a free and open democratic society. Yes, the FBI should continue to carry out its mandated counter-intelligence activities. But it should not ask us to help do the job for them by abridging the individual freedoms which this country values so highly.

The FBI agents who visited me described the Library Awareness Program as a New York City operation. Statements issued by the FBI early last fall did nothing to dispute that assertion. Through the efforts of enterprising reporters and others, it now appears that this effort has been in operation for more than two decades. What puzzles me most is that if the FBI sincerely believes that librarians are in danger of being recruited by foreign spies why has it confined its efforts to New York City? Why has it not widened this program to such cities as Boston, Washington, Chicago, San Francisco, and other noted educational centers throughout the country? Why has the FBI left us uninformed about this so-called danger for such a long time if it truly felt we were at risk? Why was it not until I contacted colleagues about the program that it was kept secret? If the danger was considered so great, why were we not warned years ago?

The right to privacy is a fundamental part of the First Amendment right to information. The right to information was clearly the intent of the Constitution's framers. I support the American Library Association in calling upon the FBI to end the Library Awareness Program and to desist from recruiting librarians and library staff to monitor patrons' use of libraries. I urge this Committee to consider enacting legislation to ensure this.

Mr. **Edwards**. Thank you, Ms. Kaufman.

The second member of this panel to testify is Herbert N. Foerstel, Engineering and Physical Sciences Libraries at the University of Maryland. Welcome.

Mr. **Foerstel**. I am testifying today not as a formal representative of the University of Maryland or its libraries, but as an administrative head of two particular libraries at College Park that have been visited by the FBI.

The first visit at the University of Maryland occurred over 7 years ago when an agent came to the Engineering and Physical Sciences Library, Technical Support Center and the pattern that was followed then has been followed across the country to date, which is one of avoiding any appointments, no phone calls, no contact in fact of any kind with supervisors.

The tendency has been to go to a staff member at a desk, flash a badge, and refer him specifically to national security, in an attempt to influence or intimidate library staff into providing information about patron records.

In this particular case, the librarian was intimidated to the point that she did not even report the incident until a year or so later when she left employment at the university and it was only at that time that I discovered what the agent had asked was that the librarian monitor the use of technical reports, report the names of anyone using such reports, whether they be students, faculty, staff members, or the public at large. And as it turns out, from my exit interview, there is strong evidence that she did in fact provide such information.

The most recent visits to the University of Maryland were a year and a half ago when once again an agent came to the Engineering and Physical Sciences Library, Technical Support Center. The emphasis was on foreigners or to use the terms that the agent gave us, "people with foreign sounding names." And the request was, "Do you know of any people with foreign sounding names who frequent the library, do you know of any people with foreign sounding names who requested data base searches?"

After little useful information was provided, the agent went across the street to the Chemistry Library. Once again, "Do you know of any people with foreign sounding names frequently using this library, requesting data base searches?" The librarian at the Chemistry Library tried to recall any foreign sounding names she could think of. But when the agent pressed the matter to the point of asking her to remove files from the file cabinets giving the precise names of people requesting data base searches and what subjects they requested—by the way, these data base searches are nothing sophisticated, the computer equivalent of the traditional indices that any library has—at that point the librarian balked and referred the matter to her supervisor. And it was at that point that I got directly involved. And by that time, the FBI had disappeared and was not seen again, to the best of my knowledge anyway.

It is important to keep in mind that none of the libraries at the University of Maryland has any classified or restricted material. Anything on our shelves can be acquired from the publishers, from the book stores, from the Government for that matter, by dropping a check in the mail, nameless and faceless.

So it is really difficult to see any particular purpose for such harassment of libraries. Although there may not, in fact, have been any purpose, any useful purpose in the program, it seems to me that there was some useful response to it. The University of Maryland has tightened and clarified its internal policies with respect to patron confidentiality and libraries around the country have done the same.

But in Maryland perhaps the most useful result of this was the Rosenberg-Kopp Bill which makes it illegal for any library in the State of Maryland to reveal the contents of patron records. By patron records is meant basically any library function or service that associated a patron's name with it. And Delegate Rosenberg was responding specifically to the Library Awareness Program and he was outraged at its violation of intellectual freedom and confidentiality.

It is important to keep in mind that there are 36 other States in this country that have such library confidentiality statutes. And in every case, such law addresses the behavior of librarians, not the FBI. It tells librarians that they are bound by law to just say no, but it doesn't in any way hamper the FBI's imposition on libraries. I have attached in my written testimony, some interviews with Senator Paul Sarbanes and former Senator Charles Mathias, both of whom strongly object to the Library Awareness Program and support our response to it.

I would like to briefly comment on the FBI's own description of their Library Awareness Program as expressed in the study, "The KGB and the Library Target," and in its presentation to the National Commission on Libraries and Information Sciences. [Both are reproduced in the Appendix.]

First I was disturbed by the FBI's obsessive concern with the open society that we live in and with the Soviet access to unclassified information. For instance, on page 2 of the FBI report, it states, "In all instances the SIS is in search of sensitive but unclassified information which provides the Soviet Union with the necessary tools to keep pace with America's scientific and technical achievements."

Page 5, "The information available to the SIS in the specialized and technical libraries is not classified, restricted, or unlawful to collect or maintain."

Page 11, "Much of the take comes from completely open sources. Trade and technical magazines are shipped to Moscow by the thousands. Technical developments reported in the press are clipped. Soviet officials attending industrial fairs and exhibitions come back with shopping bags full of sales brochures and technical layouts."

Page 30, "About 90 percent of the roughly 100,000 documents acquired each year world-wide are unclassified."

Page 31, "Virtually any American public library would reveal information in the areas of aviation, projectiles and explosives, armor and electro-optics, missiles and space."

And it goes on and on about the terrible danger in any public library. Page 32, "The Soviet Union Intelligence Services information collection effort seeks to acquire significant material from America's data bases of sensitive but unclassified scientific documents and technical reports."

Page 6 of the National Commission on Libraries and Information transcripts says—by the way, that was the testimony or the presentation of Thomas Duhadway, the Deputy Director for Foreign Counterintelligence—and he told the commission, "You must remember that 90 percent of what the Soviets collect in this country is free, available and unclassified."

On page 7, he reminds us, "As I previously mentioned 90 percent of what they collect in this country is unclassified, freely available." On page 11 he tells us again, "Ninety percent." And so on throughout the report.

Such emphasis on Soviet exploitation of our open society leads librarians to suspect the FBI's plans and motives. However, the FBI did offer librarians some assurance in its NCLIS presentation. For example, on page 19, Mr. Duhadway tells us, "We don't have a problem with the GRU military man coming into a library and getting information that is available to each and every one of us. That is fine," he tells us.

Page 25 he says, "We are not there because we think they should not have legitimate access to unclassified information. If it is unclassified, anyone can have it, we don't have any problem with that."

Page 30, "First of all we are not concerned about people having access to information, it is legal, its non-classified information. This country has made a decision and it is not the FBI's business as to what is available."

Page 34, "We are not interested in the identities of library users, we don't want you to be a spy." He tells librarians, "You are not trained to be a spy."

Page 42, "We are not searching for lists of library users what have you, but the anomaly that takes place in the library."

There was a question asked of Mr. Duhadway about the confidentiality laws such as the one signed into law a few weeks ago by Governor Schaefer. The librarian asked him, what do you think of those laws? And Mr. Duhadway says, "I think they are right. What is wrong with them, nothing. As I said when I started, I have no problem with confidentiality of lists of users, we are not interested in that at all."

But there remain many contradictions in the FBI's words and behavior. In the same NCLIS transcript, Mr. Duhadway concludes, "We can't, we are not in a position to get subpoenas or administrative subpoenas or court orders or what have you. That all becomes public. We don't want to do that unless we absolutely have to."

That sounds like a continuing interest in patron records. But the clearest contradiction is between the FBI's words and deeds. Despite his insistence that the FBI has no interest in the identify of user records, that is precisely what they have requested in every visit to my libraries and as far as I know in every visit to other libraries around the country.

Another contradiction concerns his claim, "We don't want you to be a spy." Let me quote from an article entitled, "Spy, Spying On A Spy For The People Who Spy On Spies" by Robert Colburn, a librarian at Columbia University. Mr. Colburn was recruited by the FBI after Igor Mischenko from the Soviet Mission to the UN purchased technical reports from his library and Colburn tells us, "None of the reports that Mischenko bought was classified, but," he adds, "it is estimated that as much as 90 percent of the information collected by intelligence agencies is not secret." That sounds familiar.

"Still, this placed me in an ethical dilemma. Here was a Soviet who wanted to get his hands on U.S. technology and librarians aren't supposed to restrict information or who gets it. I decided to call the State Department. An FBI agent phoned me back 3 days later and asked me to come down to the New York Federal building. After I told what I knew, the agent said, Mischenko hadn't done anything illegal but would I be willing to become what the agent called an asset? Would I meet with Mischenko and then tell all to the Bureau. I bought in."

Colburn then attempted to conjure up a thrilling James Bond like scenario of free lunches and dinners with Mischenko, conferences with the FBI case officer and even a polygraph test of Colburn to reassure Washington.

Colburn tells us, "I cleared the polygraph test and continued to eat my way through my own version of a second Russian grain deal." But then suddenly just as we were prepared for some real action, romance, violence, anything other than free lunches, Colburn's story ends, Mischenko returns to Moscow, no laws broken, no spies are trapped, just a lot of free loading by the librarian. But Colburn puts the best face on the affair, "I was relieved, my experience had been relatively benign, I was able to steer clear of both super powers without jeopardizing my country. Others have not been so lucky. So goes the exciting life of a real librarian."

Thank you.

Mr. **Edwards**. How much weight did he put on?

Mr. **Foerstel**. I didn't check.

[The prepared statement of Mr. Foerstel follows:]

Testimony Before House Subcommittee on Civil and Constitutional Rights

I am testifying today, not as a representative of the University of Maryland or its Library System, but as the administrative head of two particular libraries at College Park which have been visited by the FBI over the past few years. Several years ago, before the recent media attention, the Engineering and Physical Sciences Library at the University of Maryland was visited by an FBI agent. The procedure followed then by the FBI has since become the pattern for all such visits to libraries around the country: no prior notification or appointment and no contact of any kind with supervisors. In their initial visit to the Engineering Library the FBI asked a staff member to note the name of any library user, whether he or she be faculty, student, or general public, who read or requested particular technical reports, and to report such names regularly to the FBI. The staff member was intimidated, and apparently provided the FBI with some patron information. Only sometime later, when she left employment at the University, did she notify me of the entire episode.

It is important to keep in mind that the Engineering and Physical Sciences Library owns no classified material, and that anyone wishing a copy of anything on our shelves is free to buy it from bookstores, publishers or U.S. Government agencies. Since we own no restricted material, what could be the possible purpose of FBI harrassment? Recent FBI comments in the press suggest a concern that American high technology information is flowing to foreign countries through the standard scholarly publications available to the public. As a result, "foreigners in libraries" has become one of the FBI's most recent focusses. About a year ago an FBI agent visited the Chemistry and Engineering Libraries at College Park, again maintaining a low profile and avoiding supervisors. After flashing a badge and expressing inspecific concern for "national security," the agent inquired generally about "foreigners" or any library users with "foreign sounding names." The librarians on duty were asked to recall any such foreigners using the libraries and what materials they read. At the Chemistry Library the agent expressed particular interest in computerized literature searches, the data base equivalent of traditional printed indexes or abstracts, and asked that backfiles of such searches be examined to determine whether "foreigners" had used the service. East European or Russian names were of special interest, along with the subjects such people had searched. The librarian was uncomfortable with the FBI demands, and provided little specific information, but, in the absence of a formal law or policy on confidentiality, she did her best to cooperate.

The number of libraries that the FBI has visited nationally during their Library Awareness program is unconfirmed, primarily because of the surreptitious way that libraries have been approached. But at least nine libraries have formally complained about FBI visits: Columbia University, University of Cincinatti, New York University, SUNY-Buffalo, University of Maryland, George Mason University, New York Public Library, Broward County Public Library (Fla.), and Brooklyn Public Library.

In 1986 the University of Maryland campus legal officer indicated that Maryland law neither required nor prohibited the divulging of personal borrower or user records at the University of Maryland. However, as a result of these unwarrented FBI intrusions on academic freedom, the University of Maryland Libraries attempted to clarify and formalize an internal policy protecting confidentiality of library records. But the most important recent event in Maryland was the unanimous passage of the Rosenberg-Kopp Bill(HB1239), making it illegal for any library in the state of Maryland to reveal the contents of library patron records, including database searches. We now have the weight of law behind our internal policy, ensuring that it cannot be rescinded or compromised arbitrarily or frivolously.

Currently Maryland is among thirty-six states which have confidentiality of library records statutes. However, it is important to note that all of these statutes address the behavior of librarians, not of FBI agents. Our professional ethics, now supported by law, tells us: just say no! But the FBI continues attempts to restrict access to library information, to solicit confidential user information, and to intimidate or recruit librarians into complicity.

Copies of several documents on confidentiality of borrower records accompany this testimony, including articles and interviews I have written on this subject for the Maryland Library Association's official publication. Allow me to quote briefly from my interviews with former Senator Charles Mathias and Senator Paul Sarbanes. In July 1986 Senator Mathias stated his opposition to FBI intrusions on libraries: "I would be very sensitive about the effect, including diminishing use of libraries, that could result if people thought they were going to be questioned about what they had read. A historian might be reluctant to charge out Mein Kampf or Das Kapital. We've been very sensitive to that sort of thing here in the Senate." In January of this year Senator Sarbanes was equally strong in denouncing these FBI visits: "I don't think this sort of thing should occur without a court order or very strong grounds for legal proceedings. It should never be a fishing expedition. This is a free society and the free exploration of ideas is an essential part of a free society. After all, a person charging out a book may disagree strongly with its content. The library profession's current practice of requiring a court order sounds like an appropriate response to a situation that should not have occurred in the first instance."

Thank you for your consideration.

Herbert N. Foerstel
Head, Branch Libraries
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Sun
Baltimore, Md.
Herb Foerstel
Library
MAR 19 1988

Md. bill to curb library probes pushed

House OKs measure targeted against FBI

By Doug Birch
Annapolis Bureau of The Sun

ANNAPOLIS — A bill designed to thwart the Federal Bureau of Investigation's attempt to keep an eye on foreigners through library records in Maryland and elsewhere passed the House of Delegates yesterday by a vote of 133-0.

The bill, drafted to prevent the FBI from reviewing, without a subpoena, the records of Maryland's academic library patrons, next will be taken up by the Senate.

Written by Delegate Samuel I. Rosenberg, D-Baltimore, the bill would broaden current state law, which now bars the release of patron records from public libraries, to include private libraries and college and university collections.

While the legislation does not mention the FBI, Mr. Rosenberg said he wrote it in response to concerns about the bureau's nationwide "Library Awareness Program." Under that program, FBI agents have asked library workers at the University of Maryland, Columbia University, the University of California at Los Angeles and elsewhere to report on the activities of suspicious foreigners.

"The information they're seeking here is far removed from any legitimate security concern or legitimate criminal surveillance need of the FBI," Mr. Rosenberg said in an interview yesterday. In a letter seeking support for the bill, Mr. Rosenberg warned that "our university libraries are no longer safe from the anti-communist hysteria and xenophobia of the Reagan administration."

Testifying before a congressional subcommittee in Washington Thursday, FBI Director William S. Sessions said foreign intelligence services, particularly the Soviet KGB, see specialized technical libraries as key places to meet and recruit students and teachers for espionage.

The Library Awareness Program, he said, is meant to give librarians a chance to alert the FBI when they see suspicious behavior.

Representative Don Edwards, D-Calif., said he was disturbed by some aspects of the program. "Let me tell you I would be afraid to go to the library if I thought the librarian was looking and might report me to the FBI if I took out a particular book," Mr. Edwards said.

In defending the program, the FBI has emphasized it is not interested in keeping track of what library patrons are reading, only in contacts by suspected foreign agents. In practice, though, the FBI evidently has sought to use library records to identify suspicious patrons.

Herbert N. Foerstel, head of the

See FBI, 6A, Col. 4

Maryland House approves bill to curb FBI probes at libraries

FBI, from 1A

University of Maryland's branch libraries, yesterday said that an FBI agent, visiting the Chemistry Library at the College Park campus last year, asked a librarian to comb computerized data base search records.

The FBI agent wanted to learn the names of borrowers with "Russian-sounding or Eastern European-sounding names," Mr. Foerstel said, and "the subjects such people had searched."

The librarian, he said, initially tried to help the agent but later had second thoughts and refused to cooperate further without authorization from her supervisors.

The FBI agent never talked with library officials, Mr. Foerstel said, although he or another FBI agent a proached a librarian at Colle Park's Engineering and Physic Sciences Library — who refused cooperate.

No names of patrons were provi ed, said Mr. Foerstel, who testified favor of the Rosenberg-Kopp bill. B he said six years ago a librarian the Engineering and Physic Sciences Library had, apparentl cooperated with a similar reque and, he believes, provided names

Judith Krug, director of the Offi for Intellectual Freedom of t American Library Association, sa her group is opposed to the release the names of library patrons and t books they've read, unless the inve tigator has a subpoena

Sensitive But Unclassified: Government Threaten's Access to Data Bases

[illegible]

Please see DATA BASE page 8

DATABASE from page 1

[illegible]

John Poindexter defines Sensitive but Unclassified.

[illegible]

Hugh O'Connor
Herb Foerstel
University of Maryland
College Park

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EDITORIAL

We are proud of the way those stalwart librarians responded to the FBI

A Professional and Patriotic Duty

We are grateful to Paula Kaufman and the many other librarians who firmly declined to cooperate with the Library Awareness Program of the Federal Bureau of Investigation. Their patriotic and professional action has buttressed freedom of information, and, now that it has become public, has demonstrated to a forgetful society and government the strength of at least one profession's commitment to that free, unrestrained access to information that is the right of all the citizens of the world.

As a reminder, the library position on the matter appears this way in the American Library Association's Code of Ethics: "Librarians must protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed or acquired." In 38 states that right to confidential use of libraries is now protected by state law. The principle of individual privacy and liberty is, of course, as old as our nation and is embedded in our Constitution's Bill of Rights. It is our patriotic duty to defend it.

"I have a double-barreled sense of outrage at this kind of know-nothing intimidation by the FBI!" Representative Major R. Owens of Brooklyn told *LJ*. "My district faces a drug crisis of huge proportions, about which the FBI does a very poor job, then they waste taxpayers' money on this anti-intellectual absurdity."

Kaufman, director of the Services Group of the Columbia University Libraries and acting vice president for information at the time, was among a number of librarians visited by agents of the FBI as part of that agency's misguided Library Awareness Program (see News, *LJ*, October 15, 1987, p. 12, November 1, 1987, p. 18, Late Bulletins, January, p. 15, News, April 15, p. 16; and News, this issue, p. 18). She politely but firmly told the two young female agents of the FBI, both nearly as slight in stature as Kaufman herself, that Columbia's librarians and library clerks could not cooperate in the program to keep an eye on "suspicious-looking people" and report what library materials they consulted.

On the dark side, apparently the FBI was successful in recruiting some library clerks and even a few special librarians to their cause. Reports are coming in of a few instances of cooperation in libraries, and one instance of endorsement of the FBI Library Awareness Program by what the agency called "a specialized library agency" that no one has been able to identify so far.

In general, however, the librarians who faced this surprising attempt to intimidate them into spying on library users acquitted themselves with professional responsibility, dignity, and dispatch. The reports, the most thorough of which was Natalie Robins's report on pages 497-502 of the April 9 issue of *The Nation*, made us more proud than ever to be a member of this often unsung and, according to the FBI agents who confronted Kaufman, underpaid profession. "Librarians are clearly targets for recruiting by foreign spies," one FBI agent said, "because they are so underpaid."

Among the other stalwart librarians who stood firmly for the freedom of library users in these sad episodes are Dorothy Byers and Margaret Lippert at the University of Cincinnati, Maurita Peterson Holland at the University of Michigan, Sylvia Evans at the University of Maryland, Nancy Gubman of New York University, and Paul Fasana of the New York Public Library. There were many other unidentified librarians who stood up to the FBI when the agents came to call.

Underpaid, easy targets or not, those librarians stood up for a principle that is fundamental to our national tradition of personal freedom, and basic to our entire apparatus of free access to information. For their courage in the face of this unseemly effort, and the patriotic and professional dignity with which they responded to the FBI, as librarians and as citizens we owe them our deepest gratitude.

John Berry

Editor-in-Chief

Mr. Edwards. Thank you very much, Mr. Foerstel.

Mrs. Schroeder, do you have any questions?

Mrs. Schoreder. I am fascinated by the foreign name thing. As far as I know, almost everyone here has a foreign name except maybe Pocahantas or Running Bear or something.

Ms. Kaufman. They didn't get specific because I didn't let the conversation continue but the agent seemed to focus on names with Eastern European or Russian sounding backgrounds. And with people who had Eastern European accents.

Mrs. Schoreder. Did you personally feel at all intimidated by this?

Ms. Kaufman. No.

Mrs. Schoreder. And they didn't try to intimidate you at all?

Ms. Kaufman. No, they were courteous. They asked a lot about the policies that Columbia has for access to our libraries. As a private institution we are not freely open to the public for much of our resources, although for some we are.

And I gave them all of our standard printed materials and they left.

Mrs. Schoreder. They didn't ask you to get into one of these feeding programs?

Ms. Kaufman. No, I got no free lunches out of this, not even a cup of coffee.

Mrs. Schoreder. That is very interesting.

Mr. Foerstel, when all of this happened at your library, did you contact the FBI?

Mr. Foerstel. The first time as I said I didn't find out about it until a year and a half later and it seemed at that time too late, and also I was naive to think that it was an anomaly and perhaps didn't justify pursing it further.

The more recent visits I attempted to contact the FBI, but basically got the run around and didn't get through to anyone.

Mrs. Schoreder. What kind of a run around did you get? Did they treat you like you are some kind of a kook calling in?

Mr. Foerstel. They made it sound like my inquiry was not really significant and they would have to leave a message for someone and have someone call me back, and they didn't call back, and so on. But it just did not give me the impression that anyone was interested. I was going to say that Paula was fortunate in having staff members who were responsive and conscientious enough to immediately pass the matter on to her and that doesn't always happen.

Mrs. Schoreder. That is true. And I could see how someone could be very intimidated in certain kinds of situations.

Ms. Kaufman. My speculation is that had our reference librarian not happened along at the moment she did, that our clerk might very well have cooperated with the agents.

Mrs. Schoreder. Because you are a little intimidated and not quite sure?

Ms. Kaufman. That is right. And here you have two FBI agents telling you that this is your patriotic duty.

Mrs. Schoreder. Hey, don't bother me, I am not a patriot.

Ms. Kaufman. Yes, and especially in a large library system like ours, with the level of turnover that we have in our clerical staffs, even though we have policies printed and verbally transmitted about the confidentiality of borrowers' records, it is hard to insure that everyone is fully aware of what to do.

Mrs. **Schoreder**. Does your clerical staff have name tags on?

Ms. **Kaufman**. No, they are at desks and do not wear name tags.

Mrs. **Schoreder**. It is not quite as intimidating if they could get your name.

Thank you very much. We appreciate your testimony.

Mr. **Edwards**. Well, apparently, the FBI as of now approves of this program, and intends to continue the program. Now what are the results going to be if not only it continues but becomes nationwide and gets larger. If it is good, then it will probably get better. Tell me from your vantage point what will be the effect on our society?

Ms. **Kaufman**. Well, I think your eloquent words a few moments ago really captured what will happen. I think people will feel reluctant to use our libraries, our public libraries or academic libraries as freely as they have in the past.

One aspect of the environment is the freedom to follow a disparate thought. To go from one kind of a book to another kind of a journal, following an odd thought. And I know that I would feel intimidated if I knew that someone might be watching over my shoulder at what I was reading. I might be reluctant to read that or hide in corners, hoping that no one was watching what I was doing.

But it seems to me that it does place an enormous chilling effect on our nation's right to read.

Mr. **Foerstel**. Also, just my personal feeling and maybe I am being naive, but I see more gross incompetence than sinister conspiracy here. And we could, of course, take the recent presentation by Mr. Duhadway at face value in which case we have been assured that they have no interest in any patron records and they have no interest in violating the confidentiality of library records.

It may be that our best bet is to simply congratulate him on such a now—public statement—reluctantly public, by the way—and hold him to it. Also, if for some reason, the FBI simply does not live by its word and continues this program in contradiction to its own claims, then it would appear to me that the only legal basis on which one could change the FBI is that they are in fact soliciting illegal behavior from the librarians. We are prevented in most States—we are prevented by law from doing that and it would seem to me that there should be some restriction on the FBI's continual request that we break the law.

Mr. **Edwards**. I seem to remember that Winston in "1984" had the experience that all people in that nation had of the government having cameras everywhere and all of your privacy, all of your actions, you would have to get to a corner of the room otherwise the government headquarters could see what you were doing all the time.

It seems to me that having Government agents in libraries, whether they are library employees or paid FBI agents would give one the same feeling that Winston had.

Mr. **Foerstel**. I would think so.

Mr. Edwards. Well, I think what the three preceding witnesses pointed out is valuable, it is important to have a national dialogue on this. It is very important that the American public understands what is going on and understands that it is a threat to their liberties and their way of life and that the American people as well as Members of Congress and committees must demand that this stop. And this hearing today is very valuable for giving momentum to that phenomenon, because I think it is very important.

Mr. Dempsey, do you have a question?

Mr. Dempsey. A question for Miss Kaufman. Has the New York State law been amended recently? Are you at all familiar with what has happened there?

Ms. Kaufman. I am not familiar.

Ms. Krug. It has been amended and signed by the governor last week, as a matter of fact.

Mr. Dempsey. For both witnesses I would ask, what is your response to the FBI's statement that they are protecting librarians from intrusions on their privacy by Soviet agents who are conducting assessments of the vulnerability of librarians to recruitment and prying into librarian's lives in order to determine whether they might be subject to recruitment?

Ms. Kaufman. That seems to me a very minor threat compared to the other side which is really the threat to everyone else's privacy. I am unaware—I am certain that there have been instances, I guess Herb mentioned at least one, where librarians have cooperated with the FBI, well, that was with the FBI.

I don't know of instances in which librarians have cooperated with foreign spies. It wouldn't surprise me, I suppose if that happened, librarians are vulnerable as anyone else. But it seems not to be a terribly large threat and as I said before, the threat to the privacy of American society, so outweighs any threat to individual librarians as to make that statement rather ludicrous.

Mr. Foerstel. Also as I said before, what muddies the water so much here is that the FBI's pious rejection of any interest in interfering with librarian confidentiality makes it necessary for us to either reject their word as unreliable or to assume that they are on our side and it would have to be one or the other because Mr. Duhadway was quite explicit just from the few quotes that I gave—but this is just my personal opinion—that the FBI has a right to look for spies in the local train station or airport and they have the right to do the same in a public library so long as they do not disrupt the business of people just as anyone else has a right to enter a public library if they want to sit there all day and look for odd behavior, fine.

But librarians are not an arm of the law enforcement agencies of this country and that simply is not only not our job, but such actions are generally in violation of our professional ethics.

Mr. Dempsey. Could I ask Miss Kaufman if she could, once she gets back to New York, to get a copy of that new New York law and send it to us?

Ms. Kaufman. Yes.

[The bill amending the New York statute follows:]

STATE OF NEW YORK

7227

IN SENATE

February 25, 1988

Introduced by Sen. VOLKER -- (at request of the Law Revision Commission) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the confidentiality of library records

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section forty-five hundred nine of the civil practice law and rules, as added by chapter fourteen of the laws of nineteen hundred eighty-two, is amended to read as follows:

§ 4509. Library [circulation] records. [Records related to the circulation of library materials] *Library records,* which contain names or other personally identifying details regarding the users of public, free association, school, college and university libraries and library systems of this state*, including but not limited to records related to the circulation of library materials, computer database searches, interlibrary loan transactions, reference queries, requests for photocopies of library materials, title reserve requests, or the use of audio-visual materials, films or records,* shall be confidential and shall not be disclosed except that such records may be disclosed to the extent necessary for the proper operation of such library and shall be disclosed upon request or consent of the user or pursuant to subpoena, court order or where otherwise required by statute.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD13161-01-8

Mr. Foerstel. By the way, the recent Maryland law, the Rosenberg-Kopp bill, was a revision of previous law also. Somehow or other, Maryland had previously made it illegal to reveal the contents of borrower records of patron records in public libraries, but overlooked colleges and universities. So when the revision was made to include all libraries, it passed unanimously in both houses of the legislature.

[The bill amending the Maryland statute follows:]

HOUSE OF DELEGATES

81r2513 No. 1239 F2

By: Delegates Rosenberg and Kopp
Introduced and read first time: February 5, 1988
Assigned to: Constitutional and Administrative Law

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 15, 1988

CHAPTER ________

AN ACT concerning

Libraries - Confidentiality of Circulation Records

FOR the purpose of establishing the confidentiality of certain circulation records of certain libraries.

BY adding to

Article - Education
Section 23-107
Annotated Code of Maryland
(1985 Replacement Volume and 1987 Supplement)

BY repealing and reenacting, without amendments,

Article - State Government
Section 10-616(a) ~~and (e)~~
Annotated Code of Maryland
(1984 Volume and 1987 Supplement)

BY repealing and reenacting, with amendments,

Article - State Government
Section 10-616(e)
Annotated Code of Maryland
(1984 Volume and 1987 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Article - Education

23-107.

A FREE ASSOCIATION, SCHOOL, COLLEGE OR UNIVERSITY LIBRARY IN THIS STATE SHALL DENY INSPECTION OF ~~A~~ ANY CIRCULATION RECORD OR OTHER ITEM, COLLECTION, OR GROUPING OF INFORMATION ABOUT AN INDIVIDUAL THAT:

(1) IS MAINTAINED BY A LIBRARY;

(2) CONTAINS AN INDIVIDUAL'S NAME OR THE IDENTIFYING NUMBER, SYMBOL, OR OTHER IDENTIFYING PARTICULAR ASSIGNED TO THE INDIVIDUAL; AND

(3) IDENTIFIES THE USE A PATRON MAKES OF THAT LIBRARY'S MATERIALS, SERVICES, OR FACILITIES. ~~THAT-IDENTIFIES-THE TRANSACTIONS-OF-A-BORROWER,~~

Article - State Government

10-616.

(a) Unless otherwise provided by law, a custodian shall deny inspection of a public record, as provided in this section.

(e) A custodian shall deny inspection of a circulation record of a public library ~~that-identifies-the-transactions-of--a borrower,~~ OR OTHER ITEM, COLLECTION, OR GROUPING OF INFORMATION ABOUT AN INDIVIDUAL THAT:

(1) IS MAINTAINED BY A LIBRARY;

(2) CONTAINS AN INDIVIDUAL'S NAME OR THE IDENTIFYING NUMBER, SYMBOL, OR OTHER IDENTIFYING PARTICULAR ASSIGNED TO THE INDIVIDUAL; AND

(3) IDENTIFIES THE USE A PATRON MAKES OF THAT LIBRARY'S MATERIALS, SERVICES, OR FACILITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1988.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

Mr. **Dempsey**. Thank you.

Mr. **Edwards**. Minority counsel.

Mr. **Slobodin**. Thank you, Mr. Chairman. I just wanted to know if this panel agrees with the previous panel on the ethical question, on the way that the ethical standard is worded. In the code versus the hypothetical I was putting forward which is the FBI was requesting information pursuant to a court order.

Mr. **Foerstel**. Right.

Mr. **Slobodin**. Do you have a problem with that?

Mr. **Foerstel**. Ethics and law are not the same thing. But it would seem to me that in other professions, as was suggested earlier, I believe, there are ethical guidelines that are established by the profession that occasionally come into conflict with law. And at that point, it is the ethical judgment of the individual in that profession as to whether to suffer the penalty of law in order to follow the professional ethics or to comply with law.

I think in virtually every profession you will find such conflicts, and individual decisions are the only way they are resolved.

Mr. **Slobodin**. I guess what I am trying to get at is whether there is any professional—let's say the librarian decided under that situation to comply with the request. But the way the code of ethics is worded, they could be found in ethical violation.

Would there be any disciplinary action?

Mr. **Foerstel**. If you read the NCLIS transcript, it sounds like the FBI has a vision of the various library associations as being much more heavy-handed than they are. The conception of the American Library Association controlling your libraries, these libraries are under control, there really is no such thing. These are guidelines established by the membership of such libraries and they, to the best of my knowledge, have no punishment attached.

Mr. **Slobodin**. Do you think you would feel differently about the program if the information was individualized or if there was a different type of information being sought? Or do you think under any situation where the librarian is put in a situation where they are cooperating with the Bureau to get certain information, that the librarian has through their own observations, the justification in that situation would be irrelevant?

Ms. **Kaufman**. I think the justification would be irrelevant. There are legal remedies, and which I also don't see necessarily a conflict between the professional code of ethics and the law.

If there is an individual instance such as in the State University in New York in Buffalo case, there are legal remedies for the FBI to request that information.

Mr. **Slobodin**. Why do you think the court order would make a difference? Because to me, it sounds like the argument the librarians are making is an argument of principle. Yet, some of the panel members, the feeling I am getting, is that some of you are arguing that if they get a court order, that is different.

I am trying to get a handle. Why would that be different? Why would that be more acceptable?

Mr. **Foerstel**. I don't think that is quite the point. First of all, frequently principle is codified in law; there is nothing unusual about that. And before these library confidentiality laws were passed in the 37 States that had them, the library profession was governed by its own ethics alone. And I think it did a pretty good job at that.

What this does is it lends the weight of law to what until then had been basically a personal ethical decision, agreed to, of course, by the library associations. Nonetheless, I would still think always a personal decision. This is wrong. "I shouldn't do it" is now "this is illegal, I definitely shouldn't do it."

Mr. **SLOBODIN**. No further questions.

Mr. **EDWARDS**. Reporters sometimes disobey court orders in disclosing their information and go to jail. That is acceptable conduct in our country. Certainly a librarian who feels very strongly about the ethics of his or her profession could do that. I am sure that some of you would.

Mr. **FOERSTEL**. I can't guarantee what my response would be, but certainly someone would.

Mr. **EDWARDS**. I want to compliment you on the toughness that you are exhibiting on this issue. You are really defending your turf, and you better because your turf is being invaded. Nobody is going to defend it any better than you will.

We had experience a few months ago in regard to another matter where a church in New Mexico was infiltrated by INS agents. And the word got out that there were Federal agents amongst the members of the church and those attending church. Within a few weeks, the attendance dropped down so they could hardly make ends meet. That could happen to libraries, too, if the word gets out that you are on a nationwide basis being infiltrated by Government agents.

Yes?

STATEMENT OF JUDITH KRUG, DIRECTOR, INTELLECTUAL FREEDOM COMMITTEE, AMERICAN LIBRARY ASSOCIATION

Ms. **KRUG**. My name is Judith Krug. I am the director of the Intellectual Freedom Committee for the American Library Association. In another capacity, I am the staff liaison to the Committee on Professional Ethics. The code of ethics comes out of that second responsibility that I have at ALA.

If you are interested, I can briefly explain to you why we have taken the ethical stand we have and why it seems to contradict the law, although in my opinion it does not.

The Committee on Professional Ethics when it developed a code, which is a revised code and it has a date of 1975 on it, was very concerned that eventually there might be a situation where indeed we might appear to be obstructionists. That is exactly what has happened in many instances, not only with the FBI. Indeed, our concern with being obstructionists began in 1970 with, of all Government agencies, the Internal Revenue Service. That is another story. It was out of that that our code of ethics developed.

When the Committee on Professional Ethics made its strong stand, it also recognized that indeed we are not obstructionists. Therefore, they needed to find a mechanism where librarians, if the facts warranted, if the situation warranted, were able to become a part of the process and to provide whatever assistance we could that was legitimate.

And so in our statement called "An Interpretation of the Ethical Article," the article from our code of ethics, there is going to be a statement. In fact, we are now working on it, which goes to the point that the gentleman, the counsel, has been making, that if indeed the facts warrant, you are, within the professional ethic, very much not only permitted, but in fact encouraged to participate in the process in order to ensure that justice is done, and so on and so forth.

The way we have arranged this, or the way we have looked at it is to say if there is a show-cause order, a legitimate show-cause order, in whatever form it takes, then you have an opportunity to make a determination as to whether or not the legal documentation provides us with the appropriate avenue to provide the information requested.

And so within the interpretation of that particular ethical article, there will be a statement such as, and it is going to pick up from State statute, State statutory law, either a subpoena or other court order. If it is a subpoena, of course, we have an opportunity to move to quash it to make our position. Other kinds of court orders, we must, of course, abide by.

So we are not obstructionists. We are willing, we do show our willingness to participate in legitimate law enforcement endeavors where the facts warrant it.

Mr. **Edwards**. That is very helpful. Thank you very much.

I believe that we have completed our proceedings this morning. We thank the witnesses for being here today and making very valuable contributions. We wish you well. Thank you.

[Whereupon, at 4:05 p.m., the subcommittee adjourned, to reconvene subject ot the call of the Chair.]

FBI COUNTERINTELLIGENCE VISITS TO LIBRARIES

WEDNESDAY, JULY 13, 1988

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2226, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Sensenbrenner, and Conyers.

Staff present: James X. Dempsey, assistant counsel, and Alan Slobodin, associate counsel.

Mr. **Edwards**. The subcommittee will come to order.

Mr. **Sensenbrenner**. Mr. Chairman, I ask unanimous consent that the subcommittee permit coverage of this hearing in whole or in part by the television broadcast, radio broadcast, or still photography in accordance with Committee Rule 5.

Mr. **Edwards**. Without objection so ordered. This morning the subcommittee resumes its oversight hearings on the FBI's so-called "Library Awareness Program" and other FBI attempts to collect counterintelligence information on library use and users.

What disturbs some of us about this program is the FBI's apparent failure to recognize the special status of libraries in our society. The FBI apparently believes that libraries are no different from defense contractors and is applying to libraries a program originally designed for developing counterintelligence awareness in the defense industry.

The FBI should recognize that libraries and books and reading are special. In our nation, libraries are sacred institutions which should be protected and nurtured. Going into libraries and asking librarians to report on suspicious users has ominous implications for freedom of speech and privacy. Everybody in this country has a right to use libraries, and they have a right to do so with confidentiality.

No one disputes that the FBI has important responsibilities for counterintelligence, but the words "counterintelligence" or "national security" do not justify anything and everything. There have to be some limits based on the values we share as a society. One of these values is the special position we give to libraries. The FBI should have the strongest justification in order to support going into libraries and asking librarians to report on suspicious individuals.

I do not see that level of justification so far. All of the information at issue is unclassified. The FBI admits that it cannot stop the Soviets from using it. I also think the benefits are minimal, but we hope to hear more from the FBI about the benefits. Certainly they do not outweigh the chilling impact this program has had and the confusion and fear that it has generated among librarians.

When Director Sessions testified before us in March I said we would want to see the instructions or guidance to agents in the field defining the purposes of this program and how it has to be carried out. Yesterday we were provided some documents and told there were no written instructions. How can the FBI say that the program is narrowly focused and properly carried out when there are no guidelines?

I would hope that the FBI would reconsider this program, admit that it is over-broad, and get on to more productive work. With that said, let me emphasize that we deeply value the work of the FBI and what it is doing. We respect the organization. They have always been very cooperative with the oversight effort, including appearing before this subcommittee.

We are pleased to have as our witness the head of the FBI's counterintelligence division, and we look forward to his testimony. I yield to the gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. **Sensenbrenner**. Thank you very much, Mr. Chairman. I do not have a lengthy opening statement, but let me say that I do agree with the chairman that there ought to be some written guidelines directing agents on what they are supposed to be looking for and what the purpose of the investigation is.

Unlike the chairman, however, I do think that it is worthwhile for the U.S. Government to find out what Soviet and bloc intelligence services are looking for in the public domain because some indication of what they are looking for will give us a far better idea of exactly what kind of covert activity they will be doing outside of the public domain.

And I do not think that we should ignore that consideration during this investigation of what the FBI has been doing. Certainly FBI visits to anybody have a chilling effect, whether they be libraries, whether they be individuals, or whether they be defense contractors.

But since the intelligence and counterintelligence gathering games are basically based upon piecing together little shreds of information which standing alone seem relatively insignificant, I do not think we can ignore picking up any shred of information on what Soviet intelligence services are doing in the United States of America.

But again, we ought to have some very clear guidelines on what the FBI is looking for when they do visit libraries. I believe that they should be in writing, but again I do not think that we should close the door to getting these types of shreds of information to figure out what they're up to.

Thank you.

Mr. **Edwards**. Thank you, Mr. Sensenbrenner. Our witness today is Mr. James H. Geer, Assistant Director, FBI.

[Witness sworn.]

TESTIMONY OF JAMES H. GEER, ASSISTANT DIRECTOR, INTELLIGENCE DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. GEER. The subcommittee, Mr. Chairman, has a prepared statement that I provided on the 20th.

Mr. EDWARDS. Without objection, it will be made a part of the record, Mr. Geer.

Mr. GEER. What I would like to do is not go through that statement but make some remarks, brief remarks, this morning that I hope will at least set the tone for my own comments. I am most appreciative, number one, to have this opportunity to testify before this subcommittee because it is clearly time, or perhaps even past time, to get some of the facts of the Library Awareness Program of the FBI's New York office on the record.

I am sure you would agree, Mr. Chairman, that the task of operating an effective counterintelligence program in our open society is a difficult one. I believe we do a superb job, and in the words of a former director of our organization, I believe we do that in a way the people expect and the Constitution demands.

It would be a much simpler task in the Soviet Union. For instance, your initial hearing of June 20 on the Library Awareness Program was attended by Mr. Vladimer Cherkasov, the Third Secretary at the Soviet Embassy here in Washington.

I point this out only to contrast the systems. Perhaps Mr. Cherkasov is here today or one of his colleagues. It does not matter. It is an open hearing, and I do not object. But I will, for obvious reasons, make every effort to explain this program without disclosing classified information.

I will start by addressing some of the misperceptions and misstatements on behalf of earlier witnesses.

First, some of them tried to equate FBI contacts of librarians outside the New York City area with an expansion of the Library Awareness Program. All FBI contacts at libraries outside the New York City area have been in response to specific investigations involving basically Soviet and Soviet bloc nationals. The FBI does not have the time, the resources, or for that matter the inclination to undertake a program of the magnitude described or envisioned by earlier witnesses.

Timewise, I estimate that the Library Awareness Program represents about 3/100ths of one percent of the New York Office's FCI, Foreign counterintelligence, resource commitment.

Further, during the June 20 hearing the FBI was described as looking over the shoulders of library patrons to see what they are reading. I can assure you that the FBI is not now nor has it ever been interested in the reading habits of American citizens. No records or reading lists of any U.S. citizen have been sought or obtained by the FBI in any of our contacts with librarians either within or outside the New York City area.

One allegation made to the media and to this subcommittee by Mr. C. James Schmidt, chairman of the American Library Association's Intellectual Freedom Committee, was sufficiently outrageous as to demand a direct response. Mr. Schmidt alleged that the FBI has used telephone taps and hidden cameras in the library or libraries to monitor reading habits of patrons. This is absolutely untrue and a spurious statement of this nature only exacerbates the misinformation in this matter by adding disinformation.

The previous witnesses further allege that if this program is allowed to continue it will have a chilling effect on the nation's right to read and quote "seriously and unnecessarily invade the intellectual life of citizens."

These remarks are not consistent with the facts surrounding this matter. And I am very concerned that such statements are being used to encourage librarians to "just say no" to the FBI. I hope this hearing will assist in setting the record straight. Thank you, Mr. Chairman.

[The prepared statement of Mr. Geer follows:]

OPENING STATEMENT
OF
JAMES H. GEER
ASSISTANT DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
BEFORE AN OPEN SESSION OF THE
SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
JULY 13, 1988

The FBI welcomes the opportunity to respond to questions posed by the subcommittee concerning the Library Awareness Program. To the extent possible in an open hearing, it is the FBI's desire to explain the basis for the program, its purpose and objectives and the methodology employed by the Soviet intelligence services (SIS) in their intelligence collection efforts against specialized scientific and technical libraries.

The FBI also desires to address the concerns raised in various newspaper and magazine articles that the FBI program is improperly focused, is an infringement upon academic rights and personal freedoms, and possibly encourages violations of state confidentiality laws governing release of library records.

FBI investigations since the early 1960's have thoroughly documented SIS contacts with librarians in specialized science and technology libraries, SIS instructions given to developed sources to steal microfiche containing specific technical reports from those libraries, SIS targeting of libraries for clandestine meetings and SIS efforts to recruit librarians and students associated with these libraries. In response to this SIS effort, the New York Office (NYO) initiated an awareness program which has come to be known as the Library Awareness Program.

Interviews of library personnel under this program are patterned after the FBI's "Development of Counterintelligence Awareness" (DECA) program, which seeks to heighten the awareness of corporate executives and their employees to the hostile intelligence services threat. Our library contacts seek to inform selected librarians that they and their libraries are, and have historically been, significant SIS targets for intelligence activities and recruitment. Other objectives have included:

Identification of intelligence officers;
Identification of their agents.
Identification of SIS objectives.
Assessment of SIS tradecraft and methodology.
Education of library officials and employees to SIS methodology.

Librarians contacted under this program have been limited to those employed in libraries listed in the "Special Libraries Directory of Greater New York." These include specialized libraries of United States Government agencies, such as the Department of Energy; specialized scientific and technical sections of certain public, college and university libraries, and various engineering libraries. The Library Awareness Program has been restricted to the greater New York area.

While the information available to the SIS in the specialized and technical libraries is not classified, restricted or unlawful to collect and maintain, SIS tactics and methodology employed to collect such information have illustrated a blatant disregard for American laws and the personal rights of American citizens. SIS officers have stolen, or caused to be stolen by their agents, hundreds of thousands of items of microfiche from these libraries. SIS officers have initiated background investigations on individuals whom they have identified through research and spotting conducted in the libraries.

Suitable scenarios have been developed by the SIS to approach students, librarians, scientists and engineers to secure their cooperation. Payments or other inducements have been offered by the SIS in an effort to recruit these individuals as agents, either witting or unwitting, for the benefit of the SIS.

If an individual spotted by the SIS is ultimately recruited, he or she may be instructed to seek employment in a company, corporation or entity which deals with classified Government contracts. Once such a transition is complete, the relationship between the SIS officer and his recruited agent, which initially involved unclassified information, may readily evolve into a relationship in which classified information is obtained and passed by the agent. The Gennadiy Zakharov case is an example of this approach. As you may recall, the Zakharov case involved the recruitment of a Queens College student by Zakharov, a Soviet national employed at the United Nations (U.N.). Zakharov gave direction to the student to seek employment, after graduation, with a firm that had classified contracts so that the recruited student could furnish classified information to the Soviets. This student was recruited through the Soviet's contacts at the Queens College Library and was trained in his early stages of development to exploit the library system.

In another example, in 1973, Anatoliy Andreyev, a librarian at the Dag Hammarskjold Library, United Nations Secretariat, met a civilian employee of the U.S. military at a librarians' conference on Long Island. After a year of exchanging unclassified documents, Andreyev offered to help the military employee financially in exchange for specific classified documents. Andreyev left the United States after a quiet protest from the U.S. Government.

The objectives of this SIS effort have been:

(1) to adequately respond to the tasking of the State Committee for Science and Technology (GKNT) by collecting scientific and technical documents on a variety of topics; by

researching the most recent developments in America's military programs and by identifying the nation's emerging technology before its components become classified or restricted. The GKNT collects, coordinates and processes information in response to specific tasking for technical and military related data from the Soviet Military Industrial Commission.

(2) the spotting, assessing and developing of selected librarians to work (wittingly or unwittingly) on behalf of the SIS in meeting its intelligence collection requirements.

(3) the spotting, assessing and developing of college and university students to assist the SIS officer in the collection of needed information.

(4) the identification of scientists, engineers and corporations involved in the planning, creating, developing and producing of America's advanced technology.

(5) the utilization of the libraries as an area for the training and developing of newly recruited agents.

For instance, one specific SIS' objective has been to target librarians so as to develop and recruit sources who could subsequently be directed to seek employment with the Defense Technical Information Center (DTIC). DTIC is the central repository for technical reports generated by the research, development, test and evaluation activities of the DOD. It includes all work performed by DOD grant. Virtually all documents are classified or restricted in some way.

Unclassified and nonrestricted DOD technical reports are made available to the general public through the National Technical Information Service (NTIS), Springfield, Virginia. The Soviets are barred by executive order from accessing materials through NTIS. Nevertheless, the SIS has made continued efforts to access NTIS to assist themselves in their technical collection efforts.

I wish to repeat and emphasize that the Library Awareness Program has been strictly focused and confined to scientific and technical libraries only in the New York area. The proactive approach of this program, which alerts librarians generally of the SIS threat, should not be confused with occasional interviews of librarians in other areas of the United States which are in response to specific investigative leads involving Soviet or other Soviet-Bloc nationals. The FBI, within the purview of its foreign counterintelligence (FCI) responsibilities, frequently finds it necessary to investigate contacts between Soviet intelligence officers, and other known or suspected hostile intelligence officers and their agents and American citizens. These may include contacts with libraries or librarians. The least intrusive technique available to the FBI to resolve such contacts is direct interview of the person(s) contacted.

An example of such an interview is a recent contact by the FBI of a library in Utah. A Soviet national working in the United States attempted to use the library to gain access to the NTIS. The Soviet did not identify himself as such, attempting to conceal his true background. After learning of the Soviet's activity, the FBI contacted the library and received information which helped identify Soviet methodology and clandestine activity. This is a clear example of an SIS attempt to evade the NTIS Embargo.

I would like to address some of the accusations that have been reported by the press. First, I strongly emphasize that, under the Library Awareness Program, "reading lists" of library patrons with foreign sounding names or accents, are not of interest or concern to the Bureau. The FBI is not, nor should we be, interested in such matters.

Second, the FBI has not initiated any investigations of American citizens on the basis of a foreign sounding name or accent, their use of libraries and/or their reading habits. The FBI certainly has not conducted physical or electronic surveillances in libraries contacted through this program in order to observe and to ascertain the reading habits of "suspicious" individuals. Such accusations are spurious and tend to distort the issue.

Third, the FBI does not seek out "lower level" library employees with the hope they will circumvent rules and regulations in order to assist the FBI. The FBI does and will continue to initiate contact with library employees as logical investigative leads dictate. This is particularly so in the event of contact by an SIS officer with a lower level library employee.

The FBI has the responsibility to identify hostile intelligence officers who are engaging in clandestine activity outside the scope of their stated diplomatic positions. This identification is critical to the Bureau's efforts to protect this nation's national security. For three decades, hostile intelligence officers have utilized America's specialized scientific and technical libraries as a resource to develop sources, train agents and obtain information vital to their government's needs.

The FBI has visited libraries because of the demonstrated need to alert them of the policies and practices of hostile intelligence services and to seek their cooperation.

The activities of the SIS, their misuse of these libraries and their efforts to recruit and utilize unsuspecting employees and patrons of these libraries have led the FBI to make contacts with librarians and library officials. The FBI has made its contacts with libraries because it followed the KGB and other hostile intelligence services to these libraries. Absent the activities of the SIS and other hostile intelligence services, there would be no need to attempt to educate the librarians and other library administrators. The program is a very measured response to a well planned and organized effort by the SIS and other hostile intelligence services to exploit our specialized scientific and technical libraries and recruit our citizens.

This concludes my prepared statement. I would be happy to respond to any questions you may have.

Mr. **Edwards**. We welcome the gentleman from Michigan, Mr. Conyers. Do you have an opening statement, Mr. Conyers?

Mr. **Conyers**. No, Mr. Chairman.

Mr. **Edwards**. Or do you want to wait for a few minutes?

Mr. **Conyers**. I do not have any opening comments.

Mr. **Edwards**. Well, I think your criticism of Mr. Schmidt, Mr. Geer, I am sure is well-founded from your point of view, but this is what happens when the word gets out, and the word is out, that you are conducting surveillances in libraries. So all kind of imagining and fear is going to run through the libraries of this nation.

And when you assure us that this is a New York program, we have witnesses who say that the program was alive and well in Maryland. So once something like this starts, there is no end to the panic that overtakes our precious libraries, and that is what is going on today.

I get lots and lots of mail on this subject, and I am sure that you do, too.

Mr. **Geer**. Yes, we do.

Mr. **Edwards**. And so far I have not heard one word from the FBI that leads anybody to understand that you have the kind of keen appreciation for the importance of libraries in this society that you should have. Every sentence, every statement, that the FBI has made has been very defensive that, by golly, this is an important program. We are watching what is happening in our libraries and we are going to continue.

Somewhere along the line, you have got to justify this by saying, first of all, that you have very strict guidelines, which you do not. I have read your guidelines. They are not worth anything, and you know it. They do not give any instructions, any limitations, anything.

Secondly, the justification. The justification in the paper that you put out has some problems. You have not measured what you are doing to freedom of speech and privacy and so forth against the panic that you are causing in this country. And it is real. Even though the FBI does not appreciate it, it is very real, Mr. Geer.

Mr. **Geer**. I would like to respond by saying, first, that the FBI does appreciate it. And I know that we are here to get the facts, and the facts is what I hope we will all be able to deal with here in addressing this.

As far as the justification, we can provide more justification than you have seen, but we cannot do that in an unclassified setting, or in an unclassified document. We are preparing such a document for the oversight committees, the intelligence oversight committees, and certainly the members of this committee will have access to it, and give them a better sense of what led us in this direction to begin with.

I would certainly reiterate, though, that we have contacted 21 specialized, scientific and technical libraries in New York City under this program. Now a survey done by the Intellectual Freedom Committee turned up some 18 to 20—I do not know the exact number—of contacts over the last several years of librarians.

I would reiterate that it had absolutely nothing to do with the Library Awareness Program. They were in response to specific investigations and I hope that as we get at the facts here today that we will be able to get at some of the sensitivities that you so correctly identified.

Mr. **Edwards**. Well, thank you. Let me ask you a couple of specific questions. When you go to a particular library, do you try to talk to all of the staff who work there? Why do you not just address a staff meeting in an organized way and why are there not instructions to the field offices that that is the way they should be handled? Get them all in the room after hours and explain your program rather than sort of surreptitiously tiptoe around the library and talk to individuals lower than the director of the library.

Mr. **Geer**. Now again, Mr. Chairman, we have got to differentiate here whether we are talking about the New York office's Library Awareness Program or some of the other contacts around the country that have been necessitated by specific cases. And in fact, some of them have been caused by contacts by the librarians themselves coming to us. And I would like to separate out these things because I think that is one of the key things that I want to establish here this morning that we are not talking about a nationwide FBI program.

We are not talking about a resource commitment, and you said we had described it as an important program. In ranking it as in its degree of importance as to our overall foreign counterintelligence program, I do not rank it very high. But it does have a place in that program. And I think I have tried to give you some sense of what our commitment was.

We made a best guess at looking at how much time the New York Office probably spent doing it, and I came up with 3/100th's of one percent of their time.

Mr. **Edwards**. But you apparently do not have guidelines or regulations that tell the field offices involved and the individual agents involved how to go about this program. They go to low level employees sometimes. Sometimes they go to the head of the library and sometimes they will just go up to the desk without knowing who the person is and so forth.

You can imagine what that does to these people.

Mr. **Geer**. I will not attempt to defend any situation in which I think the approach was less professional than we would expect and demand. The justification is there for the program, as far as I am concerned. We are talking about 21 contacts. We are talking about people who have reviewed, who have seen the analysis that prompted this, and who are experienced in working foreign counterintelligence. We do not try to duplicate precisely along the lines of the defense—that we would if we talking to a defense contractor.

But we do try to convey the method of operation of the hostile intelligence services, how they go about contacting librarians, and what use they make of them. And we see situations that are extremely helpful to us. I do not need to know the content of the reading material just because it was a Soviet. We have had situations where agricultural attaches might contact a scientific and technical library to look for information on pulsed power or something of that nature.

That tells us that here is an individual operating outside the scope of his assigned duties or his nominal duties at whatever embassy is involved. We have seen a number of those cases. That is helpful to us. We do not need to go back and start getting records. That tells us that here is an individual we need to be concerned about.

Mr. **Conyers**. Would the chairman yield, please?

Mr. **Edwards**. Sure. I yield to the gentleman from Michigan.

Mr. **Conyers**. Why would you have to concerned about it if it is public information?

Mr. **Geer**. It goes well beyond that, Congressman Conyers. The library is not the only place this individual is going to go. If this helps us identify him and causes us to focus more on him because we recognize now that here is one more thing that says to us he is not an agricultural attache as he is listed. He is, in fact, a KGB Line X, which is the scientific and technical line. This is part of what we put together to decide where we are going to focus the resources that we have.

Mr. **Conyers**. Well, it just sounds to me like a person could unwittingly get into a lot of trouble browsing through the library and happens to be interested in any particular area that you seem to think would be unusual, and there we would be off to the races. And that seems to me limiting the whole idea of the public access and the ability for everybody to examine library material.

Mr. **Geer**. I understand what you are saying, and I think the chairman made reference to the perception, which I hope is what we are really addressing here. And I do not know that you were here for my opening comments at which point I stated that we have not sought or obtained any library records on any United States person in the Library Awareness Program or in any of the situations cited, the 18 or 20 contacts around the country over the last few years.

The only instance I could find where we asked for information on a U.S. person was in Florida, where an agent in attempting to locate the address of an individual had sort of run out of leads, and he stopped at the library and made an inquiry of that nature, and was advised that this would not be in accordance with the law in Florida, and at that point he immediately withdrew his request and departed.

Mr. **Conyers**. Well, Mr. Chairman, we are making a distinction between citizens and non-citizens. A non-citizen legally in the country should be able to peruse the library without bringing down the FBI on him, too, or her, would you not think?

Mr. **Geer**. Yes, if we can separate non-citizen into separating intelligence officers from legitimate library users, and I think if you look at the size of what we are undertaking here, you would have to say that we are not trying to blanket anything. But is more focused than it seems to be described.

Mr. **Conyers**. Well, we are now saying that citizens are not the subject of this overreaching, but a non-citizen legally here would have to distinguish whether he or she is an intelligence officer or not of another country.

But I am assuming that a person legally in the country is not an intelligence officer. Even, as a matter of fact, I suppose intelligence officers may get in the country legally, as far as I know. But I do not understand these distinctions. Why should not a non-citizen enjoy the right to go to the library? You know the Constitution has been tested to apply to a lot of people that are in the country, those constitutional rights, even though they may not have citizenship.

Mr. GEER. You are not going to get any disagreement out of me on that, Mr. Congressman.

Mr. CONYERS. I mean this seems like just another area of that kind of consideration.

Mr. GEER. I am not sure how you can come to that conclusion, though, based on the facts I presented that we made 21 contacts in New York City to brief these people. And then over the last few years some 18 plus identified contacts on specific cases around the country. That does not say to me that the program is in danger of doing what you are saying.

Mr. CONYERS. Well, thanks, Mr. Chairman.

Mr. EDWARDS. Thank you, Mr. Conyers.

Mr. CONYERS. I get the impression that maybe you should have had somebody here at this last hearing. It seems like we are in two different hearings. I mean we are getting information now that seems to contradict a great deal of the testimony before. And I am going to have to go back and reconcile it.

I want to go back and look at our previous witnesses and what they said. They did not appear to be reckless or people that were making statements that they did not believe very sincerely in, and they made a great impression upon me about the FBI incursions that they thought that were happening.

Mr. EDWARDS. Well, they were some of the leading librarians, the most respected librarians of this country, and they are frightened to death, I must say, as far as any great impact.

Mr. CONYERS. They were heads of organizations. Well, for my part, as one member of the committee, I am going to have to review those, and then compare this with your statement because what we have now are two unreconciled positions on a subject.

Mr. GEER. Well, I appreciate that. And I agree with the chairman that there are obviously people concerned, and there are obviously sensitivities in the library community, but again that is my understanding of one of the purposes, if not the primary purpose, of this hearing is to get the facts out so that judgments can be made.

Mr. EDWARDS. Get the facts out, yes. And we are finding out from other witnesses, and the FBI does not deny it, that when the agent comes in to the library, there is no general plan or instructions. They might go to a low level employee and start to talk to him. They might go to the head of the library, which would be the appropriate thing to do unless that person was a suspect or something like that. And that is where I am sure you agree that missing is structure, guidelines, and the necessary protections for any sensitive program like this. And I hope that they are being written right now. Are they?

Mr. GEER. I do believe, and I certainly will concede, because I do believe strongly that there are areas of direction that we can bring to the program. But what I have not seen is any abuse or a program that went beyond what its intent was. But at the same time if there are areas, and there are, some of the situations—and one of the problems is everything got lumped together, the New York program and the contacts outside New York.

In certain of the situations outside New York, there was reason to go to a specific individual. And we can make that kind of information available to you, too.

Mr. **Edwards**. Yes.

We had testimony from both the Director and somebody else in the FBI that the program was also taking place in San Francisco and Washington, DC. The director testified before the Senate Appropriations Committee. He said it is actually restricted to New York City although there have been other activities in connection with San Francisco and Washington. Now what do you suppose the director meant by that?

Mr. **Geer**. A number of years ago there were some contacts. A number of years ago there were previous contacts in New York City. You go back to the early to mid-1970s. There was, again, a very small program that made contact with a number of libraries, almost the same number as the current situation, which happened in the 1986–87 time frame, without incident. And where I think our message got across clear.

And I cannot sit here today and tell you there were any great outcomes to that, but there were some very, very helpful things that came out of it.

Mr. **Edwards**. Well, your February report said that the Soviet intelligence services in New York, San Francisco and Washington, DC. have long recognized the importance of scientific and technology libraries.

Mr. **Geer**. Yes.

Mr. **Edwards**. Well, if the threat, then, is as large as you describe it in your report in Washington, DC. and in San Francisco, why do you not have programs going there?

Mr. **Geer**. It is largest in New York, and the program there was initiated by the New York office without being directed to do so by our headquarters. And the Washington Field Office and the San Francisco office have not instituted similar programs at this point. They do not anticipate instituting similar programs at this point.

Mr. **Edwards**. I hope they are not going to without direction from headquarters in Washington, DC.

Mr. **Geer**. Well, no, certainly.

Mr. **Edwards**. Right?

Mr. **Geer**. Yes.

Mr. **Edwards**. And accompanying the orders to start a program would be some very strict guidelines, I would trust. Somehow or another the word is out that this program is existing and these incidents happen that are very upsetting to people, where low level people are contacted and then Mr. DuHadway said that the FBI was interested in "anomalous activities of library users." What do you think he meant by?

Mr. **Geer**. I think it is taken a bit out of context. What Mr. DuHadway was saying, and what we believe, is in many, many situations the person contacting the librarian, and let us say, a Soviet, will use his name. He will use his full name. He will not at that point identify himself as being an official representative of the Soviet Government. At some point in time that may become known to the librarian.

It is an awareness program. One other key thing is that we are not asking nor would we ask any librarian to violate any State statute that might apply. The idea, though, of privilege, I do not think, has a legal basis. When it comes to something that would not require violation of the State statute, then beyond that it is a decision of the individual librarian. Because privilege has really no legal basis in that case.

Mr. **Edwards**. I am going to yield now to counsel. Mr. Dempsey.

Mr. **Dempsey**. In the case of the visit to Columbia University Library, where in fact the FBI did approach initially support staff personnel, and then were referred basically up the chain of command at the library.

Mr. **Geer**. Yes.

Mr. **Dempsey**. Since that particular visit, have there been any instructions from Headquarters to New York saying please avoid this situation in the future, call ahead for an appointment with the head librarian? Has that instruction gone out from Headquarters?

Mr. **Geer**. I have had a personal conversation with the assistant director in charge of our New York office. He knows precisely what we expect in subsequent contacts.

Mr. **Dempsey**. And what would that be?

Mr. **Geer**. I do not want to run through the format, but we want to see it done as professionally as it can be done, and there are situations, and I will not even disagree that in most instances the contact should be made with the proper person, that being the chief librarian. You will not get an argument from me on that.

There are circumstances which would mitigate against that, but they are few.

Mr. **Dempsey**. So are you still holding out the possibility of in certain cases still approaching support level personnel at libraries?

Mr. **Geer**. Yes. I am holding that out because I will go back to an earlier statement. Not everyone of these contacts has been at our initiative. We have been contacted by librarians asking to talk with us, number one. And number two, we have had circumstances on specific cases, not Library Awareness Program, but specific cases where we needed to talk to specific individuals. And it is probably not a situation that we would want other personnel in the library involved in the discussion.

Mr. **Dempsey**. Well, but in those latter cases, they are not Library Awareness type programs anyhow.

Mr. **Geer**. No, but it has all gotten lumped together here.

Mr. **Dempsey**. I realize. And I am trying to separate out, on the one hand, the specific targeted interview with a specific individual about a specific situation versus the awareness type visit.

Mr. **Geer**. Yes. I think in the situation you are talking about, in a library awareness kind of contact, that we would be well-served, of course, by contacting the principal person in that library.

Mr. **Dempsey**. But you are still saying—are you saying then——

Mr. **Geer**. I am saying there could be a circumstance that would dictate that we take a different approach, but generally not under Library Awareness.

Mr. **Dempsey**. Now most of what you have been talking about, up till now, it seems to me, involves the element of the program that strives to identify Soviet or other hostile agents. When you go to a particular library, do you try to talk to all of the members of the staff there?

Mr. GEER. I cannot say that that has been the practice in each case. I know it has been the practice—I think there has been some inconsistency, and I think that is one of the things you are trying to point out.

Mr. DEMPSEY. Because if you spoke with some employees and not with others, and a Soviet agent were to come in the next day he might deal with one of the employees that you had not briefed.

Mr. GEER. Yes.

Mr. DEMPSEY. And you would not, then, get the benefit of the knowledge of that person having been there.

Mr. GEER. Clearly possible. And if that was the case, then our program has certainly not achieved what it was intended to achieve.

Mr. DEMPSEY. Now how is the librarian supposed to identify the Soviet agent? You mentioned the circumstance in which the person comes in and says my name is so-and-so, and he gives a Russian sounding name, but does not identify himself as an official with the diplomatic establishment of the Soviet Union. How then is the librarian supposed to determine whether that person is a Soviet agent?

Mr. GEER. The librarian may never make that determination. In an awareness program you can brief an awfully lot of people, but if you only have one return on that small investment, it can be well worth it. We have had situations where on the fourth visit, the librarian determines that the person was affiliated with diplomatic establishment.

There had been no contact with that librarian with us prior to that time.

Mr. DEMPSEY. But is there not also the possibility that librarians will be reporting to you names of individuals without knowing one way or the other what their affiliation is? These people may be, in fact, U.S. citizens who have Russian names.

Mr. GEER. We do not open investigations even if that were to happen. People report to us suspected bank robbers and all sorts of things, but we do not run out and open a case on all the names that people might provide the FBI. If the name they provide happens to be on the list that we have of someone that we are interested in, a known intelligence officer, or another official of an establishment, a diplomatic establishment, in which we might have an interest, then we will pursue it. But we are not going on fishing expeditions.

Mr. DEMPSEY. Then if you pursue it, is not one of the first questions that you are going to ask—you go back to the librarian and you say we appreciate your telling us about so-and-so—is not one of the first questions you ask going to be what was he using at your library, what was the purpose of his visit at your library?

Mr. GEER. Could be.

Mr. DEMPSEY. And in New York, at least, where there is a very strict confidentiality statute, is that not going to require or at least ask, is that not asking the librarian to disclose what information that person was using at the library?

Mr. **Geer**. I do not know. I would have to review the New York statute. Some statutes say they cannot furnish records. Some statutes say that they cannot furnish information, period. If the New York statute just applies to records, then there is no prohibition and there is certainly no privilege, or prohibition, against individuals furnishing something of their knowledge.

Mr. **Dempsey**. So you are saying that a person who knows the content of the record or knows information in the record and discloses that information to you would not be violating a prohibition against a disclosure of the record?

Mr. **Geer**. I am saying that is technically possible. I am saying if an individual, a KGB officer, came in and asked the librarian for some specific information and many, many times in some of the specific cases I have referred to, what they have asked for is accessed in the National Technical Information System, which they are denied access by executive order which was instituted during President Carter's Administration.

[Materials regarding technology transfers and NTIS follow; additional information is reproduced in the Appendix:]

24090

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COMMERCE

THE WHITE HOUSE
WASHINGTON

January 8, 1980

MEMORANDUM FOR

THE SECRETARY OF COMMERCE

SUBJECT: Policy on Technology Transfers to the USSR

I direct that you, in consultation with the Secretary of Defense and other appropriate officials, review and revise our policy with respect to the export of high technology and other strategic items to the Soviet Union. Pending review, no validated export licenses for shipment of goods or technical data to the Soviet Union are to be approved. This review is to reassess what exports will make a significant contribution to the military potential of the Soviet Union and therefore prove detrimental to the security of the United States in light of the Soviet intervention in Afghanistan.

In addition, I direct that you immediately review those transactions for which validated licenses have already been issued but export has not occurred to determine whether any such licenses should be suspended or revoked in light of the changed national security circumstances.

Finally, I direct that you, in consultation with the Secretary of State and other appropriate officials, determine whether certain transactions now under general license requirements should be subject to validated license requirements.

Jimmy Carter

24141

THE WHITE HOUSE
WASHINGTON

January 9, 1980

MEMORANDUM FOR

THE SECRETARY OF COMMERCE

SUBJECT: Policy on Technology Transfers to the USSR

I direct that you immediately suspend all existing specific export licenses to the Soviet Union and freeze all shipments under these licenses pending prompt review of whether these licenses should be indefinitely suspended or revoked in light of the changed national security circumstances. It is important that this review and resulting decisions be made with the utmost urgency.

Jimmy Carter

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Science and Technology
Washington, D.C. 20230
(202) 377-3111

FEB 2[illegible] 1980

MEMORANDUM FOR: Melvin S. Day
Director
National Technical Information Service

FROM: Jordan J. Baruch
Assistant Secretary for Productivity,
Technology and Innovation

SUBJECT: Sale of NTIS Reports to USSR

After considering the policy behind President Carter's recent restrictions upon export licensing of high technology to the Union of Soviet Socialist Republics (USSR), the issues raised by your January 25, 1980 memorandum on the sale of NTIS reports to the USSR, and a legal opinion on the same subject prepared by the Assistant General Counsel for Productivity, Technology and Innovation, I have decided as a matter of policy to direct you to suspend all sales of NTIS materials to the Union of Soviet Socialist Republics, including any USSR organization or agent, whether located in the United States or abroad.

In carrying out this directive, you may make appropriate refunds of deposits for publications which have not already been sent. This directive applies to all materials sold by NTIS (directly or through dealers or other parties) which have been, are now, or may in the future be, ordered by the USSR, or any USSR organization or agent, until further notice.

THE SECRETARY OF COMMERC
Washington DC 20230

JAN 1 6 1985

MEMORANDUM FOR THE HONORABLE GEORGE SHULTZ
The Secretary of State

THE HONORABLE CASPAR WEINBERGER
The Secretary of Defense

THE HONORABLE DONALD HODEL
The Secretary of Energy

THE HONORABLE ROBERT C. McFARLANE
Assistant to the President
for National Security Affairs

THE HONORABLE JAMES BEGGS
Administrator, National Aeronautics
and Space Administration

SUBJECT: Soviet Access to Sensitive Scientific and Technical Information Produced by or for the United States Government

On the basis of analysis conducted over the past year, it appears that several U.S. Government agencies are tolerating a massive give-away program that permits the Soviets to acquire tens of thousands of scientific and technical studies as well as other strategic information. I am writing to the five of you because I have no practical capability to control this flow of information. While these studies and information are made available to the public by the Commerce Department's National Technical Information Service (NTIS), Commerce does not originate the studies or information. Moreover NTIS cannot reclassify them or, given the vast volume and scope of subjects, in any practical way screen the material for sensitivity.

The source of sensitive information of interest and of value to the Soviets is the tens of thousands of unclassified and previously classified studies produced by or for the Department of Defense, the Department of Energy, and NASA, and submitted by them to NTIS. Because of its Congressional-mandate to make available to the public USG-originated studies, NTIS acts as a clearing house, selling data bases and studies to commercial vendors, such as DIALOG and ORBIT. These vendors in turn use international networks such as TYMNET to sell such USG-originated studies worldwide. With this program in place, Moscow has had unlimited access to all information in NTIS through the USSR All-Union Scientific Research Institute, which is a prominent subscriber to this source of data.

Specifically, studies submitted to NTIS have included: DOD analyses of space weapons, chemical warfare, nuclear weapons, computer security, high-technology telecommunications, electronics, computers, and lasers; Energy analyses of nuclear energy and high intensity physics; and NASA analyses of space and rocket technology. A sample list of actual studies is attached.

The potential danger to our national security is that, through the give-away program, the Soviets have access to studies and other strategic information covering much of the same type of technologies and products that the Administration is trying to keep out of Soviet hands through the multilateral export control system. This danger is compounded daily by reason of the depth, breadth, timeliness, and aggregation of the information available.

- I recently shared with several reputable scientists in Government a sample of ten studies done by DOD contractors on lasers and on composite materials, and I asked if the studies would have any national security implications if obtained by the Soviets. The unanimous opinion was that the compilation is tremendously beneficial; that is, taken as a whole, the reports give Moscow new material information to corroborate previous lab work, focus future approaches, and eliminate costly trial-and-error processes.

- A July 1984 study done for the Intelligence Community concluded that Soviet access to U.S. and Western unclassified data bases has played a significant role in Soviet military development. The study examined the Soviet cruise missile and concluded that Moscow probably used at least 60 previously classified U.S. Government documents in its development, at least 22 of the most significant of which were from the NTIS system. Of these, ninety percent were DOD documents.

The give-away program has resulted from a desire by previous Administrations to combat what they perceived to be over-classification, and to develop greater public access to studies and information generated by or for the Federal Government. It has also resulted from the apparent unwillingness to date of the pertinent Government agencies to commit the funds and manpower necessary to deal with and control the rapidly increasing amounts of information generated under government sponsorship. As a consequence, the annual volume of documents made available through NTIS continues to grow.

Efforts by previous Administrations, reflecting their policy goals, have taken the form of changes to executive orders, to regulations covering classification authority, and to legislation such as the Freedom of Information Act. President Carter, for example, issued an Executive Order shortening the time that a USG-controlled document remained classified, with studies prepared by USG contractors automatically declassified after six years.

Under President Reagan, some efforts have been made to stop this hemorrhage. Thus, Executive Order 12356 of 1982 retained the automatic declassification, unless "the classification is extended by an official of the originating agency." Section 1217 of the 1984 Defense Appropriation Act authorized DOD to restrict future sensitive studies.

Despite these authorizations, practical results remain yet to be achieved. First, although DOD set up a system pursuant to Section 1217 whereby studies begun in 1984 will continue to be declassified by the DOD-originating component and reviewed by the Defense Technical Information Center (DTIC) before release to NTIS, indications are that DOD's ability to review the annual volume of documents is limited. For example, I am advised that DTIC will not be given additional resources to assist in the review process. Second, the 1984 legislation does not impose restrictions on studies underway or completed prior to 1984. In theory, these studies are covered under Executive Order 12356, but, according to DOD and intelligence community officials, this capability to extend classification has not and is not being used. As a result, numerous sensitive reports are being dumped into the NTIS system without proper review. To give you a sense of the volume, in 1983 alone, 30,000 DOD documents were given to DTIC and more than 15,000 of these were released to NTIS, including documents related to the sensitive laser and composite material information I cited previously. Because of a "pendulum" effect resulting from the policies set in motion by previous Administrations, the annual volume of documents received by NTIS from DOD, Energy, and NASA has increased by 25 percent during the Reagan Administration.

The Intelligence Community initially raised this matter in 1982. Since then, efforts have been made by Commerce and the Intelligence Community to ensure that the relevant agencies -- DOD, Energy and NASA -- were aware of the situation, and to seek their cooperation in solving the problem. The results to date have been wholly inadequate.

At our request, the Technology Transfer Intelligence Committee (TTIC) began a study of the problem in August 1984 for the SIG/TT. The classified paper, still in draft, was reviewed by an interagency panel in January and should be ready for discussion by February. It is my understanding that, in its present draft form, its conclusions are similar to mine -- that we have a massive outflow of damaging information that must be stemmed at the source.

We cannot stop all Soviet access to USG-produced information, but we must do more to control the flow of sensitive information. Stemming this flow would not only enhance our national security, but it would also be cost efficient. Currently, we are expending significant resources to prevent militarily-significant technology from reaching Moscow through illegal trade. Yet, intelligence experts believe this source accounts for little more than 10% of Soviet acquisitions. I do not know what share access to these data bases and documents supplies, but it is clear that this information could well be of greater value to Moscow than the technology and products the Soviets acquire through illegal trade.

No one agency can solve this problem. Its resolution may involve new legislation, new Executive Orders and coordinated Government-wide regulations. Therefore, I recommend that the NSC take the lead in seeking resolution, first by organizing a comprehensive briefing on the issue and, if my degree of concern is warranted, by directing the relevant agencies to take swift and meaningful action.

Secretary of Commerce

cc: Attorney General
    Director, Central Intelligence
    Director, Office of Management and Budget

Selected Studies Available in NTIS

Civil Defense in Soviet Perceptions
(Defense Nuclear Agency)

Salt: Deep Force Level Reductions
(Hudson Institute)

The Effect of Chemical Protective Clothing and Equipment on Combat Efficiency
(U.S. Army)

The Worldwide Military Command and Control Information System
(GAO)

Fully Fueled Pomcus Vehicle Storage Test Program
(U.S. Army)

Adcom Secure Voice Upgrade
(U.S. Air Force)

Under Water Acoustic Signature of a Nuclear Explosion
(Systems, Science, and Software)

Evaluations of Five Nuclear Weapons Effects Program
(U.S. Air Force)

Policy Objective and Options Under a Leverage Strategy Toward Cuba
(U.S. Department of State)

Survey of Federal Computer Security Policies
(Defense Department)

Nuclear Analysis and Technology Assessment of Radar Concepts
(SAI, Inc.)

Cratering Capabilities of Low-Yield Nuclear Weapons
(U.S. Army)

Polymeric Microelectronics
(Syracuse University/Defense Department)

Advanced Aluminum Alloys from Rapidly Solidified Powders
(Lockheed/Defense Department)

Improved Graphite Fiber Adhesion
(Ashland Chemical/U.S. Air Force)

Device Development Program for Efficient Excitation of a Blue-Green Laser
(Northrop/Defense Department)

Development of Micro-Processor-based Laser
(Tennessee University/U.S. Army)

Pulsed DF Laser Effects Study
(Boeing Aerospace/U.S. Air Force)

Engineering Data for New Aerospace Materials
(Battelle/U.S. Air Force)

Frequency Scanning Radar Concepts for Army High Energy Laser Weapons
(U.S. Army)

A Simulation Model of the Army's Command, Control, Communication, and Intelligence Process
(Defense Department)

Mr. **Dempsey**. Denied direct access.

Mr. **Geer**. Denied direct access, which is an attempt to deny them access obviously.

Mr. **Dempsey**. And obviously, as well, they continue to have access to that material.

Mr. **Geer**. By going to a library in some cases, yes, and asking that it be accessed by that library and then provided to them.

Mr. **Dempsey**. And also they have the access through resale of that material. That material on NTIS is available abroad, and, in fact, is available abroad on on-line services.

Mr. **Geer**. We cannot prevent all that. We do not have the resources to undertake to enforce the executive order, but it does tell us something.

Mr. **Dempsey**. What does it tell you?

Mr. **Geer**. It tells us that perhaps looking at what this person is accessing that we ought to be interested. As I say, maybe it is an agricultural attache. I gave an example. I mean you learn a lot from bits and pieces. Again, I want to go back. I do not want to lose sight, at least, from my own sight, I do not want to lose sight that we are not asking for library records on Americans, period.

And if we find that we are about to violate a State statute in any sense, we will back away from that.

Mr. **Edwards**. Does every agent involved in this program have copies of or knowledge on the State confidentiality laws?

Mr. **Geer**. They most certainly should be in their State. So the New York office, everybody on that squad, is familiar with, and if everyone was not, they are now.

Mr. **Edwards**. Do you have somewhere in the Bureau one place so that you can access the results, the consequences, the rewards of this program?

Mr. **Geer**. Yes, sir.

Mr. **Edwards**. How big a file is that?

Mr. **Geer**. I do not think we would expect a very big file on 21 contacts. And particularly, with the sensitivities and things that have come out, and again, I have got to restate that this is not any kind of massive program. We do not have that much of a commitment. It is very focused, and I do not expect any really great return. But again, we get bits of information that help us and help our program.

Mr. **Edwards**. Well, you describe a modest program. Do you compare that or judge that vis-a-vis the rather massive public reaction that you have gotten on this? Have you ever set down in a room with your colleagues from the FBI——

Mr. **Geer**. Yes.

Mr. **Edwards** [continuing]. And said, now, look, this is the program we are operating. This is what we have accomplished with it, the value to our national security programs. On the other side, we have this sort of national panic with Congress and with the media and everything looking into it. Is it worth the candle? Have you talked like that with your colleagues?

Mr. **Geer**. Yes, obviously we would have conversations of that nature. At the same time, we will try to bring more direction to the program. At the same time, we believe that there is a necessity for the program. And we are hopeful that armed with the facts that we will get the cooperation we are looking for. And as a matter of fact, we have received some very, very favorable letters.

They are not all letters based on the situation that has been created. There are letters, and particularly since the hearing on the 20th, the positive letters have exceeded the others.

Mr. **Edwards**. Well, we have quite a number of people in this country who can say anything they want to say, and that is what free speech is all about——

Mr. **Geer**. I am talking about letters from librarians.

Mr. **Edwards** [continuing]. Yes, who would say that the FBI ought to do everything possible to accomplish their duties, the goals that the FBI must try to accomplish in national security. You could stop the Soviets or bloc nations from utilizing our libraries by closing the libraries, too.

And that would really take care of them getting the information. But we certainly do not want to go that far.

Mr. **Geer**. We certain do not.

Mr. **Edwards**. So some of the letters you are getting would license the FBI to do almost anything. We are well acquainted with that. A lot of people do not appreciate libraries like perhaps you and I do.

Mr. **Geer**. Well, I understand what you are saying. But again, I am only referring to the letters from librarians who are harking back to the testimony on the 20th, and have taken a very positive view of it. So I am not trying to make a point about a general reaction of the public. I am just sticking to the librarians.

Mr. **Slobodin**. I wanted to follow up on when the chairman asked whether you had reviewed the program in light of reaction from the library community. Has that review over the last couple of months included Director Sessions?

Mr. **Geer**. Yes, it has.

Mr. **Slobodin**. And during the existence of this program has former Judge Webster, when he was the Director, was he ever involved in reviewing this program?

Mr. **Geer**. No.

Mr. **Slobodin**. But Director Sessions has reviewed it?

Mr. **Geer**. Yes.

Mr. **Slobodin**. I wanted to just briefly compare because there seems to be some conflict, appears to be some conflict in testimony we got at the last hearing. I want to get your reaction or response to some of the statements that were made.

There was a statement made by James Schmidt. He says the alleged targeting of libraries as a place of recruitment and of librarians as potential operatives by Soviet intelligence agents is unsubstantiated. Fair statement?

Mr. **Geer**. No, not at all. I think he seized on the fact that the student ultimately recruited by Mr. Zakharov was, in fact, sort of pushed in his direction by another student. And the fact is that Mr. Zakharov identified the first student through the bulletin board in the library premises and contacted him and ultimately he suggested a friend or acquaintance might be able to assist more. So regardless of how he read that, the initial contact did come out of that.

Mr. SLOBODIN. Another statement. This is from Duane Webster, and he says the FBI assumes wrongly that the threat of KGB collection of unclassified information available in U.S. libraries is sufficiently great and the payoff from FBI efforts in libraries so significant that they outweigh any unintended chilling effect on the life of the mind. Is that a fair statement? Is that based on an assumption?

Mr. GEER. Well, it is obviously based on an assumption. But it is disturbing to me, as it is to the chairman. That is one of the reasons I was looking forward to the opportunity to meet with this committee is because I felt that a lot of this examined, and a lot of positions were taken in the absence of facts, and it is a very hard thing for the FBI to get those facts out there once something like this starts moving.

And it is disturbing to me that the initial assumption seems to be that the FBI is out there as one statement was "looking over the shoulders of Americans in libraries" and what have you. And it becomes a dilemma, a dilemma for the organization, and a dilemma for me to say that that is not the fact, that that is considerably overblown, and then I run into situations where I cannot fully explain the circumstances because of the need to classify certain parts of it.

And that is a frustrating thing for me.

Mr. SLOBODIN. Well, let us talk about the—if I could just briefly review—so I understand exactly the scope of this program, is that the awareness program includes an educational side and an intelligence gathering side. And that amounts to about 3/100th of one percent of the FCI operations of the New York Field Office?

Mr. GEER. That is a figure I came up with myself by just looking at how many people were used and how much time it took them to do this and compared that to the number of resources we have operating there in our Foreign Counterintelligence Program. And my only point was to attempt to show that this is a very, very small part of our program, and just a contributing part, though.

Mr. SLOBODIN. And that is limited to the New York area?

Mr. GEER. Absolutely.

Mr. SLOBODIN. And you are not asking for library records? You are not trying to put librarians in a position of violating a State statute?

Mr. GEER. I have not found one situation. I mentioned the situation where our original request, had it been acceded to, would have been a violation of the State statute. That was pointed out to us, and we withdrew the request. I have found no situation at all where we got any records or any information on any U.S. person as far as library records or personal information goes, any.

Mr. SLOBODIN. And the 21 contacts, fill me in on exactly. The 21 contacts was over what time span?

Mr. GEER. My recollection like late 1985 to 1987, during sort of that time frame, 21 libraries that are listed on this sort of general directory of scientific and technical libraries in New York were contacted.

Most of those contacts, I think it is obvious at this point that most of those contacts resulted in at least a successful description of our program to the point that the vast majority of those librarians were not disturbed, or if they were, that was not made known to us.

But the chairman makes a point, and I believe in it very strongly, that we have got to make certain that we are talking to the right people, and that we are presenting it in the way that is clearly understandable.

Mr. SLOBODIN. Just one final question. And that is as you are describing it, this Library Awareness Program is a modest component of your FCI operations. What would be the impact if you were unable to do this intelligence gathering or be able to seek out these shreds of information?

Mr. GEER. Well, that is difficult to answer. I have certainly tried to convey that I do not see the Library Awareness as being the final bulwark between us and the "Red menace." I am certainly not here to Red-bait or even to wave the flag. Just to say that it is a small part of our overall FCI program that does provide very, very useful information.

Mr. SLOBODIN. Thank you very much.

Mr. EDWARDS. Mr. Dempsey.

Mr. DEMPSEY. The one case that has been frequently discussed in this context is the Zakharov case. Now in that case, Zakharov was using a student to go into the library, and at least in the elements of the case that have attracted the most attention, did not do the xeroxing or other research himself. So the librarian there might never have seen Zakharov. They would have seen the Guyanian student, Leakh Bhoge.

Mr. GEER. Yes.

Mr. DEMPSEY. So this program would not have alerted the librarian to that kind of situation.

Mr. GEER. Hard to say. If any person in the U.S. public who has some sense of how these services operate sees something that is recurring, if the librarian, and let us say it is a librarian, that Gennadiy Zakharov was a Soviet representative, if the librarian over a period of time had noticed that on the third Tuesday of every month he seemed to be meeting someone in or near those premises, it might cause a reaction. It might raise a question. I do not know that the Zakharov case ever would have.

But this is an awareness program. It does not mean that there will not be a situation like that.

Mr. DEMPSEY. But the one example that is most frequently cited in discussion of this case did not involve an approach to a librarian.

Mr. GEER. That is true.

Mr. DEMPSEY. It did not involve a Soviet diplomat going into a library.

Mr. GEER. That is not true.

Mr. DEMPSEY. He sent in students that he had hired.

Mr. GEER. He went into the library. It was within the library premises that he got the name of the student to begin with from the bulletin board.

Mr. DEMPSEY. But that could have been—I mean I think you are talking about a single visit with a name off of a bulletin board.

Mr. GEER. It could have been.

Mr. DEMPSEY. Again, not even necessarily approaching a librarian.

Mr. **Geer.** Possibly.

Mr. **Dempsey.** Getting that information off of a passive source, the bulletin board.

A number of the reports that have come to us both in the testimony and in some of the published reports, in some of the correspondence we received, talk about agents approaching librarians and asking for information about suspicious persons or persons with Russian sounding names, or persons with foreign-sounding names.

Mr. **Geer.** Yes.

Mr. **Dempsey.** Has there been any effort to limit those kinds of statements by agents?

Mr. **Geer.** The only one that I am aware of as the allegation in that regard was one that supposedly happened seven years ago in Maryland. I do not know even know how I would identify it. I cannot imagine that it happened, but I cannot deny that it happened because I cannot even identify.

Mr. **Dempsey.** Well, the Maryland incident was, in fact, more recent than that.

Mr. **Geer.** No, no. The one you are talking about is the first one. The more recent one was quite focused.

Mr. **Dempsey.** The two reports that we have are Spring 1987, FBI agents requested information on library users with foreign sounding names, particularly Russian or Eastern European.

Mr. **Geer.** My recollection is that goes back to the context some seven years ago that Mr. Forestal mentioned. That is not a description of the most recent contact.

Mr. **Dempsey.** We also have a report of a visit at the University of California in Los Angeles—which would have been, I assume, a non-library awareness visit, that is a specific individual was the focus of the FBI's interest in that instance—but the report is after the agent requested information about the specific individual, he then asked to be informed if anyone of a suspicious nature appeared in the library.

Mr. **Geer.** I cannot imagine an FBI agent using those words. Again, I am not in a position to deny it, but I certainly cannot affirm it.

Mr. **Dempsey.** How about the word "anomalous"? Would an FBI agent use the word "anomalous"?

Mr. **Geer.** I would think there would be circumstances that that could be used, yes.

Mr. **Dempsey.** OK.

Mr. **Edwards.** Could not spell it though.

Mr. **Geer.** Probably not.

Mr. **Dempsey.** Mr. DuHadway explained to the National Commission on Libraries and Information Sciences that librarians should watch out for anomalous behavior.

Mr. **Geer.** Yes, I tried to address that a little bit earlier.

Mr. **Dempsey.** Now has there been any direction to agents that anomalous or suspicious behavior is not to be a focus of concern here?

Mr. **Geer.** Well, I think I have addressed that. The people in our New York office who are involved in the Library Awareness Program have a very clear understanding of what their approach should be. I sense concern that it has not been memorialized so that you could review it. I would be pleased to do that if that would be helpful.

Mr. DEMPSEY. Now going back to the question of suspicious persons or persons with foreign-sounding names—let us leave aside suspicious for a second and just focus on foreigners—Paula Kaufman did testify that in the June 1987 visit to the Columbia libraries that the agents referred to foreigners and persons from countries hostile to the United States.

Now how is a person supposed to, how is a librarian supposed to identify a foreigner or a person from a country hostile to the United States?

Mr. GEER. I think that answer is clear. I mean the librarian is not supposed to identify any such person, and I do not question Ms. Kaufman, and if that is the way it was presented to Ms. Kaufman, I do not even disagree with her concern.

My next step might have been, if I were Ms. Kaufman, to call a responsible official of our New York office and say give me some more information; what is this all about? I have just been told that this is the focus of this program. Is that true or is it not true?

I can only assume, and I made a reference to it earlier in our discussion in my testimony here, I must assume that the persons presenting that particular one did not present it in the manner that we would expect them to present it so they could be clearly understood.

I think some evidences of that would be that out of the 21, the rest of them did not cause that kind of a reaction. So our need to do it professionally and properly is obvious. It is very obvious to us.

Mr. DEMPSEY. Now one of the points you made earlier was that the FBI, as a result of this or any other effort, has not requested records, library records on any U.S. person.

Mr. GEER. That is correct.

Mr. DEMPSEY. Has there been any sort of a conscious or unconscious effort on the part of the Bureau to limit those requests to non-U.S. persons?

Mr. GEER. No. I am not sure I even understand that question. Most of our cases in this program are on non-U.S. persons.

Mr. DEMPSEY. And implicit in the question is, or implicit in your statement was the point that you have requested library, actual records, on non-U.S. persons. There was certainly an incident at SUNY-Buffalo where the library originally said no, and you obtained a subpoena, in fact, and then the library complied.

There were other situations, for example, University of Houston, where the library did not comply, and you did not pursue the subpoena route, and the matter was dropped. But you have requested library records on non-U.S. persons. And my question was——

Mr. GEER. Not as part of the Library Awareness Program.

Mr. DEMPSEY. Not as part of the Library Awareness Program. And my question just was would you see this request for library records on a U.S. person as some extraordinary step that required some extraordinary justification or some higher level of approval or perhaps a subpoena? In other words, would you draw a distinction if you did go and ask for library records on a U.S. person?

Mr. GEER. I am familiar with the legislation that has been introduced in that regard, and I do not have any problem with the intent of that legislation. I certainly would like to be in a position to formally respond to some of the technical parts of it. But there are situations, and they are quite frankly rare, and the case you mentioned in Buffalo was not even in the FCI program, situations where that could happen. But I mean it would just be pure speculation on my part to try to come up with a scenario there.

Mr. DEMPSEY. Much of the discussion has been relating to identifying Soviet agents as the focus of the program. But in the report on "The KGB and the Library Target," much of the thrust seems to be the Soviet exploitation of unclassified information in U.S. libraries.

Now to what extent does that play a role in this program?

Mr. GEER. To a lesser extent. There are certainly situations where it would be helpful for us to know, and I have tried to make that point early, helpful for us to know what they were looking for. If it is emerging technology that, again, I describe someone who may list himself as an agricultural attache or whatever.

Mr. DEMPSEY. But that goes to identifying him as an intelligence agent.

Mr. GEER. Precisely.

Mr. DEMPSEY. It does not go to the fact that he is collecting——

Mr. GEER. Some of it is obviously positive intelligence. And whether it is of any use to the FBI or not, it could well be of use to other parts of the intelligence community.

Mr. DEMPSEY. But the FBI, once it learns that an individual is using unclassified material at a library, the FBI cannot stop that person from using that information.

Mr. GEER. That is clear. We might choose to advise the librarian—as the librarian would certainly want to point out to us any provisions of a State statute that we might be unintentionally at odds with—I certainly would not hesitate to point out to the librarian that this request for information accessing through the librarian the National Technical Information Service was prohibited.

Mr. DEMPSEY. Although in the Utah case what the library did there on their own was simply to refer the writer back to the NTIS Headquarters, to the NTIS Clearinghouse where presumably——

Mr. GEER. Well, those are not the full facts, but the facts of that I cannot get into.

Mr. EDWARDS. Walk me through a hypothetical case or one with some history behind it without, of course, disclosing any classified information. The New York office is the headquarters for this sort of work. I think you have testified to that. OK. Is there a squad with a head, an assistant SAC or something, that is Mr. Library Awareness of the New York office, and do they report to him in the morning and say, well, now what do you want us to do, or here is an assignment? We used to get little cards, pieces of paper, go to this library and do this and that. Is that the way it works?

Mr. GEER. I do not think that there is anyone there at this moment that would want to accept that title.

Mr. EDWARDS. Or maybe Ms. Awareness.

Mr. GEER. But there is a squad that has a responsibility for a certain line of the KGB that instituted this as part of their attempts to fulfil their responsibilities. It is even on that squad, again, how long does it take to contact 21 libraries, and what kind of commitment does that take. So it is just, even of that squad and that supervisor's responsibility, it is a minor thing, and those libraries were decided upon and the contacts made as being the most reasonable ones to initiate a contact with.

But I mean this is not something, this scenario that you would suggest, where you go in in the morning and you pick the name of the library. Again, I hark back to we are talking 21 libraries.

Mr. **Edwards**. Well, at a hearing we held here in March the Director promised that he would review the Library Awareness Program. Has he done that yet?

Mr. **Geer**. He has been provided all the information that we have at our disposal on the Library Awareness Program, all of it, and he is truly concerned, as I am concerned, as I have tried to convey here, with the reaction to some of the sensitivities that have been expressed, and he is equally interested in our getting the facts before the public and particularly before the librarians.

Mr. **Edwards**. Yes. We asked him on March 30 by letter urging him to address three issues in the review. Do you know if he is done that yet?

Mr. **Geer**. I do not know. No, I do not know.

Mr. **Edwards**. Well, you can carry the message back to Headquarters that we would be interested in a response to that letter.

Mr. **Geer**. All right.

Mr. **Edwards**. And we would like to invite the director back for the results of his review, his conclusions and their general plans. We would appreciate that.

Mr. **Geer**. I will certainly pass that message.

Mr. **Edwards**. Thank you.

[The subcommittee's March 30, 1988 letter, a subsequent July 14 letter, the Director's response of September 14 and a December 8 letter follow:]

SESSIONS

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
Telephone: 202-225-3951

March 30, 1988

The Honorable William S. Sessions
Director
Federal Bureau of Investigation
J. Edgar Hoover Building
Washington, D.C. 20535

Dear Director Sessions:

As I mentioned to you at our hearing on March 17, I recently reviewed the transcript of Deputy Assistant Director Tom DuHadway's presentation to the U.S. National Commission on Libraries and Information Science regarding the FBI's "Library Awareness Program." The transcript has heightened my concern that the program is inadequately defined in terms of goals, scope and methodology.

The program would not be troublesome if it were limited to warning librarians at non-public, non-university libraries that they may be the targets of hostile recruitment efforts. Problems arise, however, when the Bureau also visits public or university libraries and asks librarians to report to the FBI on suspected attempts to recruit library users, on "anomalies" like theft that often occur unrelated to intelligence activities, or on the interests and usage patterns of library users, both those who identify themselves as foreigners and non-foreigners who are suspected, on the basis of ill-defined criteria, to be working for the Soviets or others with hostile intelligence efforts.

I was pleased to hear you say that you would review the Library Awareness Program. As part of your review, I would urge that the following issues be addressed:

(1) What libraries does the program apply to? Is it limited to special and technical libraries (and if so how are they selected) or does it extend to some university libraries and to certain sections of some public libraries?

(2) Is the program limited to warning librarians of the possibility they may be targeted for recruitment or is it also

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intended to identify hostile intelligence agents or students or other library users who may have been recruited or who may be subject to recruitment by hostile intelligence services? If it includes the latter, how does a librarian determine whom to report on? Is it when an individual engages in certain "anomalous" behavior?

(3) Is the program concerned in part with determining what unclassified information Soviets are collecting? If so, how is this done without asking for information on library usage?

Given the current lack of clarity on these points, the program is likely to generate continued concern and to have an unintended chilling impact on librarians and library users. It appears from reports we have received that agents in the field, some of them apparently new to foreign counterintelligence work, have not adequately explained the program to librarians and have asked inappropriate questions. Without specific reasonable limits on the program, misunderstandings are bound to occur, and there will be both over-reporting and under-reporting of information to the Bureau.

I look forward to your responses to the questions outlined above and to the other results of your review.

Sincerely,

Don Edwards

Don Edwards
Chairman
Subcommittee on Civil and
Constitutional Rights

DE:jdw

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
Telephone: 202-225-3951

July 14, 1988

The Honorable William S. Sessions
Director
Federal Bureau of Investigation
J. Edgar Hoover Building
Washington, D.C. 20535

Dear Director Sessions:

Assistant Director Geer's appearance before the Subcommittee yesterday was very helpful to our consideration of the FBI's counter-intelligence visits to libraries.

Our concerns focus on three points. First, was the inability of Mr. Geer to describe how a librarian is to decide which individuals to report. Unless an individual at some point identifies himself to the librarian as an officer with a Soviet diplomatic establishment, the librarian can only act based on whether the person has a Russian or Eastern European-sounding name, or is engaging, as Mr. DuHadway stated, in "anomalous activities." Such determinations could be very subjective and might be dangerously overinclusive. It is easy to see how agents, without clearer guidance than Mr. Geer could give us, would ask librarians to be on the lookout for foreigners or suspicious persons, as has been reported.

Our second concern has to do with asking librarians to disclose information on library use. It is clear that if a librarian does call the FBI to report that a Soviet has been in the library, the first two questions the FBI will ask is "what was the Soviet's name" and "what materials was the Soviet interested in." Both of these questions require the librarian to disclose information in records protected by New York statute. The distinction that Mr. Geer drew between disclosing the records and disclosing the information in them seems to ignore the spirit of the New York law.

Our third concern has to do with the lack of any guidelines defining or limiting the program. As I asked in my opening statement this morning, how can the FBI say that the program is narrowly focused and properly carried out when there are no guidelines defining it? It may be possible to draw up meaningful guidance to agents making Library Awareness visits. Such guidelines should ensure that visits are coordinated with the head librarian. They should focus on circumstances in which a person has identified himself as a Soviet national, and should not involve considerations like anomalous activities or foreign-sounding names. And they should distinguish university libraries from other types of technical libraries, such as those affiliated with trade or professional associations. It is clear that universities are far more sensitive to issues of access and confidentiality, so a program that did not include public or university libraries would be much less troublesome.

I recognize that this program represents a minuscule part of the FBI's foreign counter-intelligence efforts. Given the limited results compared with the confusion and concern that it has generated, I think the Bureau would be best served by strictly limiting the program or curtailing it altogether.

As to visits to libraries that are not part of the Library Awareness Program, I think there should be a separate airtel to all SACs or some other directive to the field making it clear that agents should avoid general questions about persons exhibiting suspicious behavior or persons with foreign-sounding names. Since in each of these cases there is interest in a particular individual, agents should confine themselves to inquiries about that person.

I look forward to hearing from you on this matter. As I said to Mr. Geer, we may invite you to testify once you have completed your review.

Sincerely,

Don Edwards

Don Edwards
Chairman
Subcommittee on Civil and
Constitutional Rights

DE:jdb

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

September 14, 1988

Honorable Don Edwards
Chairman
Subcommittee on Civil and
  Constitutional Rights
Committee on the Judiciary
House of Representatives
Washington, D. C.

Dear Mr. Chairman:

Thank you for your correspondence on the FBI's Library Awareness Program. Rather than detail its history or set forth in detail its importance to the Bureau's foreign counterintelligence work, I thought I would instead describe for you the direction I have decided this program should take.

(1) When deemed necessary, the FBI will continue to contact certain scientific and technical libraries (including university and public libraries) in the New York City area concerning hostile intelligence service activities at libraries. The purpose of such contacts will be twofold: to inform these libraries that hostile intelligence services attempt to use libraries for intelligence gathering activities that may be harmful to the United States, and to enlist their support, along the lines discussed below, in helping the FBI identify those activities. Incidentally, I share your concerns about public and university libraries, and where feasible the Library Awareness Program will not focus on them.

Honorable Don Edwards

(2) The librarians at these scientific and technical libraries will be asked to advise the FBI of any contacts their personnel have with persons who identify themselves as Soviet or Soviet-bloc nationals assigned to certain Soviet or Soviet-bloc establishments in the United States and who do any of the following:

(a) seek assistance in conducting library research;

(b) request referrals to students or faculty who might be willing to assist in research projects;

(c) remove materials from libraries without permission; or

(d) seek certain biographical or personality assessment information from librarians themselves and/or on individuals who are known to the librarian being queried, particularly on students and academicians.

This information will also be sought on contacts with individuals who indicate that they are acting for such Soviet or Soviet-bloc nationals. These criteria are narrow, and in my opinion they will not require judgments by librarians as to who is of interest and who is not of interest to the FBI. More importantly, they should make it clear that the FBI is completely uninterested in the library activities of anyone other than those persons who meet these specific criteria.

(3) If and when individuals meeting these criteria are identified to the FBI, we will inquire further as to what these individuals are seeking from librarians. The FBI is charged with keeping track of hostile intelligence service activities in the United States, and I believe it is essential that we make these inquiries.

(4) In conducting this program, the FBI will not attempt to circumvent local library management in contacts with librarians; ask for information about people with foreign sounding names or accents; ask for reports on "suspicious" or "anomalous" behavior; or ask for circulation lists or other records of what people choose to read.

(5) We intend to ask librarians for help along the lines set forth above. If they do not wish to help, that is up to them, but we are confident that they will help if the program is explained to them properly. To that end, training of FBI personnel participating in the program will be enhanced, where necessary, so that personnel will be particularly sensitive to the limitations that I have described in the above paragraphs.

Thus, I anticipate that the Library Awareness Program will help the FBI identify hostile intelligence service officers without causing the Bureau to collect library information on the general public.

As you are aware, in many cases the FBI will have already identified known or suspected hostile intelligence service officers and co-optees. When the FBI needs information about the activities of such persons, it will continue to contact anyone having that information, including librarians. Such contacts will be nationwide, and such contacts will be no different from any other FBI investigation. These contacts will, however, differ from Library Awareness Program contacts in one significant respect. In the Library Awareness Program, the FBI will be asking librarians to help in the initial identification process using the criteria set forth above. In any other contacts with libraries, the information sought will concern specified subjects.

I hope that the foregoing serves to answer your questions about the direction that the Library Awareness Program will be taking and about other FBI contacts with libraries. With respect to your request for various documents, the classified FBI report on Soviet Intelligence Service library targeting is being sent to you under separate cover. Other documents describing the Library Awareness Program were given to Mr. James X. Dempsey of your staff on July 12, 1988. Please contact the Bureau's Congressional Affairs Office if you need any additional materials.

Concerning your request for analysis of the impact of state library confidentiality statutes on the Library Awareness Program (or on other contacts with libraries), I am continuing to review this issue, and I expect to have further information for you shortly.

Thank you for your questions and comments about the Library Awareness Program. They have been extremely helpful to me in determining the direction the program will take, and I hope you will not hesitate to contact me if you wish to discuss this matter further.

Sincerely yours,

William S. Sessions

William S. Sessions
Director

1 - Honorable David L. Boren
Chairman
Select Committee on Intelligence
United States Senate
Washington, D. C.

1 - Honorable Robert W. Kastenmeier
Chairman
Subcommittee on Courts, Civil Liberties,
and the Administration of Justice
Committee on the Judiciary
House of Representatives
Washington, D. C.

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

December 8, 1988

Honorable Don Edwards
Chairman
Subcommittee on Civil and
  Constitutional Rights
Committee on the Judiciary
House of Representatives
Washington, D. C.

Dear Mr. Chairman:

In furtherance of our prior correspondence, enclosed is an analysis, prepared by the Special Staff of the Bureau's Intelligence Division, of fifteen library contacts with respect to which questions have been raised about the applicability of state library confidentiality statutes.

Of the fifteen contacts, twelve were conducted pursuant to specific investigative leads in furtherance of FBI counterintelligence responsibilities and were not related to the Bureau's Library Awareness Program. Two of the contacts were in connection with the Library Awareness Program, and one was in response to an unsolicited telephone call to the FBI from a staff member of the particular library.

Of the thirteen contacts for purposes unrelated to the Library Awareness Program, six were in states that had no confidentiality statute in effect at the time. Of the remaining seven contacts, in six instances no records were requested, and in the seventh, records were obtained pursuant to a grand jury subpoena. The two Library Awareness Program contacts did not involve requests for records, such that the New York statute was not at issue.

Underlying factual information on these contacts, which is classified, is available to you and to any members of your staff who possess requisite security clearances.

Honorable Don Edwards

Please contact Supervisory Special Agent John S. Hooks, Jr., at the Congressional Affairs Office, telephone number 324-4515, who will make arrangements for you to review this material if you wish to do so.

Sincerely yours,

William S. Sessions
Director
John E. Otto
Acting Director

Enclosure

STATE CONFIDENTIALITY STATUTES

AND

FBI CONTACTS

BROWARD COUNTY LIBRARY, FT. LAUDERDALE, FLORIDA

Prior to requesting any information, the FBI Agent asked the librarian if there was any legal prohibition against such disclosure. After being advised by the librarian that state law required production of a court order, the Agent left without making any further request.

There was no violation of state law, nor did the Agent encourage any violation since no request for information was made after being advised of the statutory requirement of a court order.

UNIVERSITY OF MICHIGAN ENGINEERING LIBRARY

There was no violation of state law since the FBI's contacts occurred prior to the enactment of Michigan's statute (1982, effective March 30, 1983) requiring confidentiality of library records.

NEW YORK PUBLIC LIBRARY (NYPL) and CONTACT OF AN NYPL LIBRARIAN AT HIS RESIDENCE

There was no violation of the New York statute restricting disclosure of library records since the FBI neither requested nor obtained any records during either of these contacts.

UNIVERSITY OF UTAH

There is no state statute in Utah prohibiting or restricting disclosure of library records. All library records in the state of Utah are considered public records, with unrestricted access by any person or agency.

PRINCETON UNIVERSITY, NEW JERSEY

The FBI's contact at Princeton University, circa 1978, involving an FCI investigation of GRU officers, occurred prior to enactment of the New Jersey statute (1985) restricting disclosure of library records.

UNIVERSITY OF CINCINNATI

There is no statutory authority in effect in the state of Ohio prohibiting or restricting disclosure of library records, although legislation is currently pending in the Ohio legislature which will require that these records be made confidential.

UNIVERSITY OF MARYLAND CHEMISTRY LIBRARY

There was no violation of Maryland state law since there was no state statute in effect at the time of the FBI's contacts at the University of Maryland restricting or prohibiting disclosure of university library records.

In 1984, the Maryland legislature enacted legislation restricting disclosure of public library records, however, this statute did not include records of university or college libraries. In June, 1988, the Maryland legislature enacted a statute which will now require that library records of educational institutitions also be confidential, with restrictions on disclosure.

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UNIVERSITY OF HOUSTON

There is not statutory or judicial authority in the state of Texas prohibiting or restricting disclosure of library records.

UNIVERSITY OF WISCONSIN

There was no violation of the Wisconsin state statute inasmuch as the FBI did not make any requests for library information from the interviewee.

NYU'S COURRANT INSTITUTE

This was a library awareness contact. There was no violation of the New York statute since no requests for records were made during the FBI's contact.

GEORGE MASON UNIVERSITY, FAIRFAX, VIRGINIA

There was no violation of the Virginia state statute restricting disclosure of library records since no requests for records were made during the FBI's contact.

Additionally, the FBI's contact at George Mason University was in response to a telephone call placed by a staff member of the library who was concerned about defense documents being checked out by an individual the librarian believed to be a Soviet. These contacts were initiated by the library, and not the FBI.

STATE UNIVERSITY OF NEW YORK - BUFFALO (SUNYAB)

In compliance with New York law, the FBI presented a Grand Jury subpoena to officials at the State University of NY - Buffalo (SUNYAB) requesting specific library records necessary to a criminal prosecution involving violation of the Foreign Agents Registration Act (FARA).

After a review by the University's legal staff, SUNYAB complied with the federal subpoena.

BROOKLYN PUBLIC LIBRARY, NEW YORK

Th s a library awareness contact. There was no violation of state law since no records were sought or obtained during the FBI's contact.

UNIVERSITY OF PENNSYLVANIA

There was no violation of the Pennsylvania state statute since the FBI neither requested nor obtained any records which would fall within the purview of the statutory restrictions regarding disclosure of library circulation records.

UNIVERSITY OF CALIFORNIA

There was no violation of the California state statute restricting disclosure of library records since no records were sought or obtained during the FBI's contact.

Mr. **Dempsey**. Do you have any sort of analysis of the State library confidentiality laws? Have you assembled that?

Mr. **Geer**. Yes.

Mr. **Dempsey**. Could you make that available to us?

Mr. **Geer**. Yes. Do you not have it at this point? It is my understanding that you had most of it.

Mr. **Dempsey**. No. Your analysis of the laws, no, we do not have that.

Mr. **Geer**. An analysis of the laws. I have the provisions of the laws. What do you mean by an analysis of it?

Mr. **Dempsey**. Well, other than xeroxes of the code provisions from the 38 States, has your legal division interpreted those laws, read them, analyzed them, summarized them, said what they say, said how they influence either the Library Awareness Program with respect to the New York law or the 20 or so visits to other libraries that were not Library Awareness, but have occurred in the past several years?

Mr. **Geer**. Perhaps not in the form you are describing but in a form sufficiently helpful for our needs, yes.

Mr. **Dempsey**. I think we would appreciate seeing that to help us understand this issue.

Mr. **Geer**. All right.

Mr. **Dempsey**. You have emphasized several times 21 special and technical libraries. Are there current plans in the New York office to go and do a second round, to go and do another set of libraries, or are you going to leave it at the 21 for the time being?

Mr. **Geer**. We will make additional contacts with libraries as we feel the need and the requirement is there, and we will do it in such a manner, if we need to, that it will be very, very clear, and not subject to misinterpretation of what our intent is.

Mr. **Dempsey**. Do you contemplate a second round of the size of the first round?

Mr. **Geer**. I do not want to give you a yes or a no on that. It will be more event driven, and how we see. I mean the awareness that has been created is really quite substantial.

Mr. **Dempsey**. There are not many libraries that do not know about it.

Mr. **Geer**. I think that is an understatement. And I, again, I think this is helpful. I think getting the facts out and getting them out hopefully in a forum where they can be used by persons in that profession as well as the public will be an extremely helpful thing to all of us.

Mr. **Edwards**. Anything more, counsel.

Mr. **Slobodin**. Just one question. Do you feel there has been an over-reaction to this by the library community?

Mr. **Geer**. Well, there has. I mean there clearly has. But I do not know. It is easy to say that, but getting at the root cause of it and turning it around is not quite as easy. I do not think if the facts at all had been understood there would have been any reaction like this, and just what we could have done to have prevented it, my only sense is we could have perhaps described—I really do not know.

But I follow and agree with some of the chairman's comments about the sensitivities, but it truly did get overblown.

Mr. Slobodin. Thank you.

*Mr. Edwards. Well, the word certainly should go from Head*quarters to the New York office or wherever else you plan to have the program that before they get permission to move ahead with a program that has caused this much anguish to the FBI and to some people that they had better have a very carefully, narrowly drawn charter of some sort that protects the agents, protects the office, and protects the rights of privacy and the State laws. All that has to be written down, does it not, Mr. Geer?

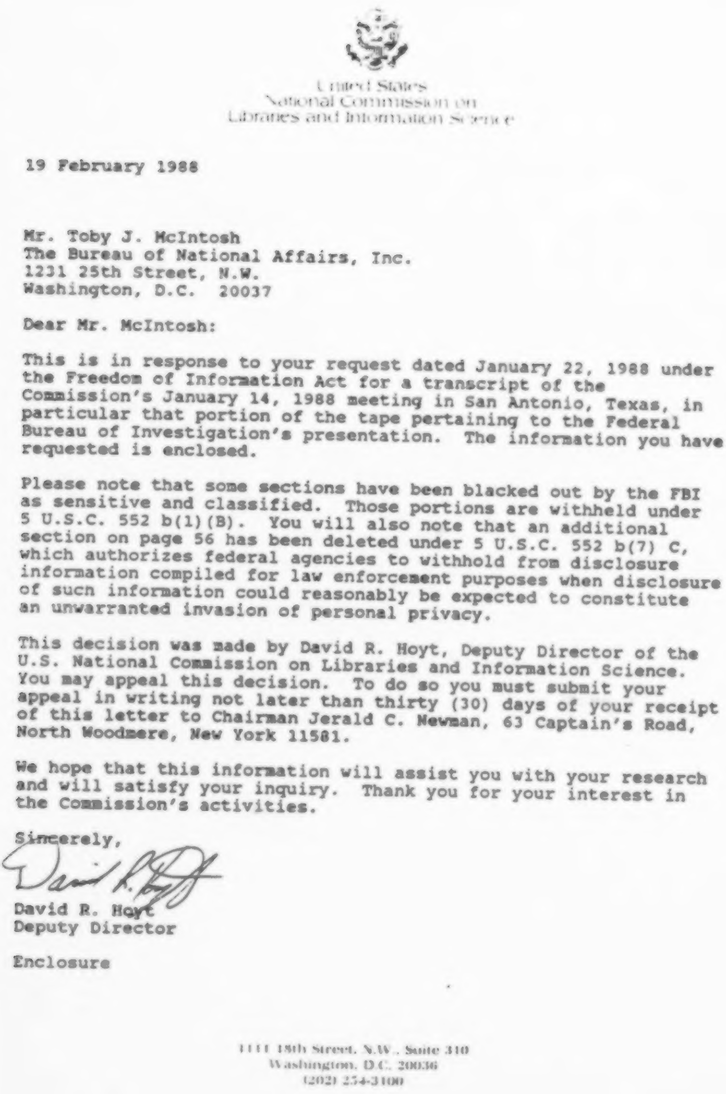
Mr. Geer. Agreed.

Mr. Edwards. Right. Well, thank you. You have been very helpful. We always like to see you here, and we will expect in due course the results of the study and the review by the Director, and perhaps he can come up and visit us at a hearing on the matter. But thank you again, Mr. Geer, for coming.

Mr. Geer. I will pass that on. Yes, sir.

[Whereupon, at 10:55 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX



United States
National Commission on
Libraries and Information Science

19 February 1988

Mr. Toby J. McIntosh
The Bureau of National Affairs, Inc.
1231 25th Street, N.W.
Washington, D.C. 20037

Dear Mr. McIntosh:

This is in response to your request dated January 22, 1988 under the Freedom of Information Act for a transcript of the Commission's January 14, 1988 meeting in San Antonio, Texas, in particular that portion of the tape pertaining to the Federal Bureau of Investigation's presentation. The information you have requested is enclosed.

Please note that some sections have been blacked out by the FBI as sensitive and classified. Those portions are withheld under 5 U.S.C. 552 b(1)(B). You will also note that an additional section on page 56 has been deleted under 5 U.S.C. 552 b(7) C, which authorizes federal agencies to withhold from disclosure information compiled for law enforcement purposes when disclosure of such information could reasonably be expected to constitute an unwarranted invasion of personal privacy.

This decision was made by David R. Hoyt, Deputy Director of the U.S. National Commission on Libraries and Information Science. You may appeal this decision. To do so you must submit your appeal in writing not later than thirty (30) days of your receipt of this letter to Chairman Jerald C. Newman, 63 Captain's Road, North Woodmere, New York 11581.

We hope that this information will assist you with your research and will satisfy your inquiry. Thank you for your interest in the Commission's activities.

Sincerely,

David R. Hoyt

David R. Hoyt
Deputy Director

Enclosure

1111 18th Street, N.W., Suite 310
Washington, D.C. 20036
(202) 254-3100

FBI PRESENTATION
to
U.S. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE
by
Tom DuHadway

January 14, 1988
4:15 p.m.-6:15 p.m.
San Antonio Public Library
San Antonio, Texas

MR. NEWMAN: Let me start the meeting. We've asked for a closed meeting and at the end of the meeting we'll either decide what further the Commission will want to do. We'll either decide that today or decide that tomorrow. The closed meeting is so that we can have a sharing of information from the Federal Bureau and as well as input to the Federal Bureau as to how our Commission views what they're doing in this regard. Let me just say I was in the Orient when this hit the New York Times and I have to tell you, some of you may already believe, that I'm inclined, and I'm supposed to be impartial, but I am inclined on behalf of what the Bureau is doing. And that comes to a great extent from some personal experiences that many of you may not have had, may not be aware of. The Soviet intelligence threat in our country is only rivaled by the Red Chinese. I'm talking as a layman, this is no classified information. I can tell you of two direct instances in the most unseemingly places of all where their operatives have shown up -- one was in New York City, at a meeting of the Association of the United States Army. This was a meeting of, you know, for people who are interested in the United States Army, and it's affairs, reserve officers, reserve enlisted men, regular people, etc. We have a regular luncheon in an armory on 14th Street. And low and behold we're going to talk about how the Army fights in the 1980's, when somebody comes up a whispers to our guest speaker, who's a Major General, that there is an assistant Russian military attache in the audience who he recognizes in civilian clothes. And the other instance, and I just found out about this last week -- I have a friend who is a senior vice president of a major New York brokerage house. His specialty is nuclear materials, metallics, mining, those kinds of things. And he comes back from lunch one day and finds this fellow at his desk going through his papers. He asks him who he is, and he says oh he's interested in an investment. He had an accent. Finally he found out that he was another assistant military attache of the Russians who was very interested in how we make our new armored piercing shells ~~shelves~~ for the new M-1 tank, which there had been some writings on, that this fellow had been ~~did~~ some writings on for investment advice, but obviousely had some more technical information. Just yesterday before coming down here I was talking to a fellow I know in New York who was working on an investment proposition in an African country and who had been working for years with this Israeli citizen and it turns out that he was arrested in Israel on Monday, this was an Israeli citizen, as a, I guess they call it a deep level, a KGB agent, who had come out with the Soviet immigration a long time ago and they finally got their hands on him last Monday. By the way, he's under, this particular individual, under indictment in the Carolina's. You may or may not know of the case, but if you don't I'll tell you about it later -- I'm sure you're -- okay? And my friend who I've known I guess for ten years, American, American-born, had no idea that this fellow who he had gone to Africa with, who he'd gone to the Middle East with, who he had entertained in his home, was a KGB agent. Now I only tell you that because I've had these brushes on the fringe, and I'm just your ordinary citizen like yourself, and maybe New York being the kind of melting pot it is, with all the things it has, you see more of it than you see elsewhere. But we have, as you know, last May, we looked at sensitive, but unclassified information which had created a furor in the library and information sciences community, and I think we cleared the air to an extent in terms of what the issues were and what the requirements of national security are and what the requirements of the other sectors of our society. We have the responsibility, as Commissioners, of being sure there's freedom of access of information, but I think we have another responsibility in upholding the Constitution of the United States, which is probably a higher, which is a higher responsibility, and that includes citizens protecting our democracy and our republic. Freedom of access is very important and it is one of the mainstays of the library community. But I will tell you that freedom is much more important and to protect the freedom of the United States, I think is more important. The investigation, or our looking into, or having the presentation by Tom DuHadway, can be a valuable service in helping to clear the air. The FBI recently doesn't present their rationale for action; they really don't. You'll normally get a "no comment." I think the fact that they are here shows that it is important to them and important to our Commission. Our support for the maintenance of the freedom of our country, since charges have been made against the FBI that could undermine their efforts to protect security of our nation. Now undermine it how? I would say by restricting their access to information, and I think that's another way of looking at the same issue. You'll remember that at our last meeting, John Juergensmeyer, who is very active in the library community, representing libraries, and who is an attorney, said one of the charges by the librarian from Columbia University and the Intellectual Freedom's Committee of the ALA, was totally false. That charge being violation of first amendment rights. I think we have to take a balanced look, a real balanced look at what is going on. We never really knew what the operation was or what is going on, and I think this will give us an opportunity, and I think it's important that we have this opportunity. We have with us Thomas DuHadway, who's flown down from Washington just for this purpose. He's the Deputy Director of Operations for Foreign Intelligence, which means they have the primary job of countering the activities of foreign intelligence agents in the United States, of all nations, it's a massive responsibility. He's had assignments on the East Coast and all over the United States. He's a graduate of Southern Illinois University; he has done graduate work at George

Washington University, and I'm really glad and proud that he's here to talk to our Commission. I'm sure you'll entertain questions?

MR. DUHADWAY: Certainly.

MR. NEWMAN: And with that very limited introduction I'd like to turn it over to you and if there's any questions after he's made his presentation, and that includes staff, if anyone has any questions, we'll be glad to entertain them.

MR. DUHADWAY: Thank you very much, Mr. Chairman, and it is my pleasure, and on behalf of Director Sessions, who is a native of this area of the country, and today is in Waco, Texas speaking, and will be back next week to speak to a group at the University of Texas in San Antonio here, and it is with his knowledge that I am here, and his blessings, and what I would like to do is give you, and not insult any of your intelligence, but counter intelligence is an area that alot of people are not familiar with what it means, how we go about doing it and how the Soviets, which I will direct my remarks to primarily, go about doing their work in this country, and I'll give you a little idea of what the KGB and the GRU are, what their presence here in the United States consists of, and what it's about. And again, if any of you are students in this area or scholars, what have you, please bear with me, I don't mean to impugn in any ~~of~~ way your knowledge.

When you hear the term counter intelligence, and that the FBI is the primary counter intelligence agency in the United States, most people really don't know what that means. It encompasses both a responsibility to counter espionage which is the traditional stealing of classified information most always related to some national defense information which is classified, but it also has to do with non-criminal activity on the part of intelligence agencies, it's the responsiblity of the FBI to collect information and analyze that and do something with it.

You must remember that 90 percent of what the Soviets collect in this country is free, available, and unclassified. The KGB is the civil, non-military state committee for security. It's an organization of about 300,000 people. That includes about 100,000 what they would refer to as border guards. If you have ever been to the Soviet Union, they have a massive presence all throughout the country. The other 200,000 people are involved in the business of collecting intelligence either against their own citizenry or worldwide. They don't operate in a ~~vacum~~ VACCUM. ~~When~~ their government is set up there are two main organizations that give the KGB, which is the non-military aspect, and the GRU, which is there equivalent of our military intelligence. They get specific guidance and direction from two areas, and there are numerous public source documents that would lay this out for you, but the two main guiding and directing bodies, I'm getting a little ahead of myself and I'll come back, or basically their national ministry or science and technology, which they refer to as the GKNT. If you've dealt with the Russian alphabet, it's much easier to deal with initials -- I have trouble with English, let alone with Russian. And in the organization which they refer to as the VPK, which is their military industrial commission. It's a very structured forthright approach. These two groups, which are represented by Members of the ~~[illegible]~~ Politboro, highest levels of the government, meet on an annual basis and they set out their intelligence needs. And they get 90% of their intelligence needs from the United States, Western Europe and Japan. We have a very healthy conflict in our government, in that we encourage production and co-production internationally, we sign alot of licensing agreements, we encourage our industry to go international and produce internationally. So alot of things that we consider high technology that we may want to restrict for export and what have you, we at the same time sell [license agreements] (???Tape 1, #11) and it's produced overseas and we're kidding ourselves if we say we're restricting the flow of that technology. That's why alot of it comes from Europe. But these two organizations actually levy requirements on the KBG and the GRU. We need x, we need y, we need z, and you go get it. And wherever you get it is fine, and how you get it is fine. As I previously mentioned, 90% of what they collect in this country is unclassified, freely available. There has been a decision made by our government to make that information available to anyone and the FBI has no qualm with that decision at all. We do like to know what it is they're collecting because that gives us an idea based on their illegal activities, which we also follow, as to what their intelligence needs are, where they're going, what industries they're developing, what technologies we may even need to suggest become classified. And Mr. Chairman the area you're talking about is growing new technologies, and alot of times are available out in our economy, in the library systems, and in the public sector that are non-classified that later are taken out of the public sector and become classified as our ability to use that technology is demonstrated and we can put in to use and then we classified it and we worry about what we lost later. But that's the nature of our government and that's fine. So, that's where they get their guidance and direction. And they, of course, are told you can get this information any way you want. And I give you some idea of their presence here, and again as I go through this if you have any questions first of all there are no questions that are "off-the-wall" or not inappropriate because no one has all the answers in this business because we're learning all of the time and if you've got a question, please don't consider it inappropriate and I'll try my best to answer it. Between the Soviet Union, the Bloc and the Chinese, there are approximately 3500 people in the United States who have diplomatic immunity, or have diplomatic status. There are another 23,000 Chinese students, half of which are sponsored by our government, another half are sponsored by private individuals. We have 700,000 visitors from the Bloc and other countries, China and what have you, that have in some way or another have conducted activities that are INIMICAL [????] (tape 1, #13) to our well being.

MR. NEWMAN: Seven hundred thousand annually?

MR. DUHADWAY: Annually, yes. And then we have another 7,000 delegations that may come from the Soviet Union, Poland, Hungaria, Czechoslovakia, China, what have you, coming over, looking at our industry, looking at you name a part of our economy, our society and there's a delegation from a communist country here exploring it. And that's great. I think that's a super thing to do. We're proud of what we do as a nation and we don't have anything to ~~do~~ hide, but those countries tend to use those people for illegal activities, and we've been able to document that through the years. And I don't mean to say that every Chinese student here is a problem, that's not so. Or every Soviet scholar that visits here is a problem, that's not so. But they have utilized these people in the past and we're able to document it in great detail as they choose to use these people illegally, very often, so consequently we have to have our antennas raised to take a look at what the individual is or is not doing and if it is a legitimate situation we go on about our business. Most of our foreign counterintelligence work is centered in five or six areas, and that's because these countries choose to use their diplomats to conduct their counterintelligence activities. We have a very large presence in New York City for two reasons: the great melting pot of the world is in New York and the United Nations is there. We have representation at the United Nations from governments that we don't even have diplomatic relations with such as North Korea, the Republic of Vietnam. All those people are present, the PLO, Libya. Those people are present in New York have diplomatic status and conduct activities there, so we have a very large contingent.

MR. CARTER: Is it true that Brooklyn probably is the hotbed of all this?

MR. NEWMAN: That's because I was born there.

MR. DUHADWAY: I was going to say there's a hidden agenda there. I was going to wait to see who volunteered to be from Brooklyn. Washington, D.C. That's because again of all the diplomatic establishments there. Most of the countries we have diplomatic relations with have their main embassy there [?????] with Consulates (tape 1, #17) throughout the country. San Francisco, Chicago, Miami, Houston and Los Angeles. That's primarily where we have our largest concentration of FBI agents who work for counterintelligence. Approximately 35%, and I won't get into the classified area, I'll use just a round figure, 35% of all the diplomats from the communist countries and Bloc countries are engaged in intelligence activities outside of the scope of their stated diplomatic positions. They do that for one basic reason. They have diplomatic immunity. Their persons are not subject to search. If you do catch them involved in an espionage activity you could prosecute them for, we do not prosecute because the U.S. government has extended to them diplomatic immunity and we then go to the State Department and ask that they be declared a persona non grata and sent home. On rare occasions they use people who do not have diplomatic immunity and we refer to those people as illegals. Not that they're in this country illegally. That's a jargon term that we use in the trade is that they are operating outside of their legal establish. Alot of times they will have false identity and they're here legally according to their papers, but they're not a legal diplomat working out of one of the embassies or consulates. And they use their diplomatic establishments for lots of different things, and you've seen it in the paper and those of you from New York see that Senator Moynihan is always beating the bush about the Soviets intercepting the communications of U.S. citizens. We know they do that. They do that from their diplomat establishments. If you talk on a non-secure phone in the Washington area and you use the right buzz words, you can bet that your conversation is going to be intercepted, taped, translated and sent back. They have a very good capability of doing that.

MR. NEWMAN: Out of Cuba?

MR. DUNADWAY: They do it out of Cuba, they do it right out of Washington, they do it right out of New York City from their diplomatic establishments. So, you're private telephone conversations, according to the Senator, according to my belief you should have a right to be able to talk with some degree of privacy. We have the belief in the right of privacy in numerous situations, one of which is your telephone calls, but you don't have that and won't have that because they have diplomatic immunity to be able to conduct those types of operation from their establishment, which is considered legitimate foreign soil and there's no privacy in the airwaves and if you get into a microwave situation, if you call from here to Washington, it's going to go by microwave and it's floating around in the air, it's very easy to intercept and they do that sort of thing.

Lastly, and it's a sad note, but since 1984 we've had 26 individuals arrested, prosecuted and sentenced to jail in this country for espionage. From 1965 to about 73 we had none. From 73 to 83 we had five or six, now all of a sudden we have this big mushrooming of U.S. citizens, as well as foreignors who have been arrested and convicted of espionage, and is that really indicative that we've got a monsterous problem. No there are some unique explanations for that. But, there's been a change in philosophy by the federal government that with the passage of several laws that would allow the government to protect their information, while at the same time prosecuting individuals, it is now possible to go to court and prosecute someone for an attempted theft of classifed information about a weapons system without putting a weapon system out and wind up doing yourself more damage by giving it out than you would have had you not prosecuted. There has been that type of legislation passed and it has been reviewed by the Supreme Court and all our judiciary people and lawyers have attested to its constitutionality and we're able to prosecute alot more cases in the past than we would have been able to because we wouldn't have been able to keep the information segregated yet give the accused his just day in court. So that's one of the main reasons. But it's a sad note. There are all facets of the government involved in espionage. We had the first and only FBI agent. There have been CIA people past and present, military people past and present and civilian people past and present, all involved for lots of different reasons. As a result of this, the FBI, considering that education is probably the key in an open society, and I'll jump on one of your themes here that I had the pleasure of looking at your little video, the sharing of information is extremely important in an open society. We have set about on a program which we call "The Development of Counterintelligence Awareness." And what we do on a routine basis is to go out to all contractors that have classified contracts, from a confidential, secret, and top secret level, and try to educate their people as to what they can expect from the Soviets and other intelligence agencies in this country and just develop their awareness. We do that. And we do hold a firm belief that everybody is susceptible to a recruitment pitch. You could get one in your own business if they thought you had access, but we also recognize that everyone is not recruitable. The day of the ideological spy is gone. We don't have the Herb Philbricks that you might have seen on television anymore. The Soviets especially are convinced that Americans are motivated strictly by money. The main reasons for people being involved, those 26 people I talked to you about, the primary reason was money. The second reason was revenge. They felt they had been mistreated by the government or the military and to get back they'd do something rather ridiculous and they say it's ridiculous after they've been arrested and faced a long jail term. At that time they're able to reason it out and say maybe they shouldn't have done it. But those are the two major motivations and we've seen in recent espionage cases. [redacted]

To counter that 300,000 people, there are only 9,000 FBI agents. We don't have all of those working for or on counterintelligence matters, and we keep that number classified [redacted]

Some, you could see the Soviet military, the GRU, they travel throughout the country with State Department permission and they come down here to this area frequently. There are three very large, active military bases here, alot of retired military and they'll come right into this building routinely every trip, come in get new maps, get new street maps, get new phone books and they take them all back every place they go. They do that for a reason and it doesn't take a plot to figure why, but that information is publicly accessible, available and what have you, but they systematically and routinely do that. If one of our military attaches, on a travel through the countryside in the Soviet Union, tried to pick up a city map or a phone book or what have you, there would be an international incident...difference in society. We, of course, can live with that, but you have to develop this INTELLIGENCE [???] (tape 1, #26) why are they doing this, why are they collecting that type of information.

see l.O page

KGB has four separate units [???] (tape 1, #26) and they're two that I'll speak to. The first Chief Director is responsible for all their overseas espionage and intelligence gathering and in that there are four groups: line x, they call lines, that's just a group of people that you'd see on a wire diagram, line x, which is their science and technology people, line pr, which is their political people, line kr which is their own counterintelligence and security people. Wherever they have a large colony, they have sufficient people there to ensure they all live together with one exception and that's their intelligence officers and they keep close watch over them. They don't want them talking to Americans. They don't want them associating out in society. If their family situation is such that they have a teenage son or daughter or younger child, the teenage son or daughter doesn't come with them to the United States. He or she stays in the Soviet Union. You can bring your younger children, but you can't bring your whole family because they're afraid you'll walk away. Common practice. And then they have line n which handles their emigres and immigrants who are over here as well as servicing their legal people who are not stationed. Line x and line pr, political areas, it's very difficult to separate legitimate political activity from their intelligence-gathering activities, so there are alot of them here. They have a right to lobby for their country's point of view, we accept that. They don't have a right to do it covertly, or using an innocent U.S. citizen to put their ideas and goals forth. But the most active group, and what's going to impact on the New York situation, which I'm going to get to quickly is line x which is their science and technology collection. Our technological edge over the Soviets is our greatest strength. When you sit down and do any basic reading about the military strengths and counter strengths, and weapons and what have you, they outman us and they outgun us in totality. But, they don't have the technological edge that this country has. And, we're greatly ahead of them in almost everything you can conceive -- there are some areas that they're better than us -- and when you see a major change in the Soviet weapon system, it's usually modeled or reverse engineered after something the United States has done and you can see those following, alot of times espionage cases. There was a case involving and Hughes Aircraft Radar Engineer by the name of Bell and a Polish individual by the name of Marion Soharski, who was President of Polanco, and who was out in the Los Angeles area. [???] (tape 1, #29) Mr. Bell was and is a radar expert, and the radar that we used in our F-16's and what have you was referred to as "look down, shoot down radar", which is very similar to a 35 mm camera, the new ones, what you see is what you're looking at. The new versions on the MIG of their radar is just an exact copy or reverse engineering of our "look down, shoot down" radar and the Poles are the ones who got that, so they have a nice sharing program too. Again, 90 percent of what they collect is legitimate. We don't have any concern about that, but we do like to know who's collecting and what they are collecting and that's a burden that's been put on us by Presidential directive and law, and we try to do that. Because it affects alot of things our government does or does not do as well as what things we might want to move to see if we can classify them and what have you. Alot of ways we attack their activities. The biggest problem we have here in this country, because it's a free and open society, is identifying which one of their diplomats, how many of their diplomats are in fact intelligence officers. That's a major problem for us. They all come under diplomatic immunity. They come over here -- some we'll know from recruitments we've made in their own service, we follow those recruitments in place. If we were successful in recruiting the Chairman here, he would tell the FBI that Tom DuHadway is coming over here to serve as Second Secretary, but he's really a KGB spy. Now that makes our job very easy, but those people are very difficult to get and maintain. We get some of their identities from defectors. You may have read about Yuri Yurchenko (SP??) who came over and he could say Tom DuHadway is a spy and he's been with the KGB for a long time. And they all use different areas of cover, either in the United Nations or in their ministry of foreign affairs. It's extremely difficult for us to find a "first termer" when he comes over here on his first tour to identify what he's doing. ¶ The U.S. government and our society doesn't have the manpower and wouldn't stand for surveiling all of these people 24 hours a day to find out what they're doing. We just don't do that, we don't have enough money, we don't have enough manpower and it's impossible to do. So the first thing we try to do is identify who the intelligent officer is. And that is, was and is part of our program in New York City and I'll get to that. We have to be able to identify him or her and there are no hers by the way, but I'll throw that out so it's not to offend anyone. So the first thing we try to do, routinely we'll look at every diplomat that comes in from one of those countries to see if he's a legitimate diplomat. If he's a legitimate diplomat, that's fine, we don't care, he serves a function and goes about his way. But if he's an intelligence officer we really care about it, because his mission is to go out and develop people such as yourselves as sources of information for him because they refuse to go out and collect information overtly under their own name. We don't have any problem if they do that. We don't have a problem with the GRU military man coming into this library or any other library and getting information that's available to each and every one of us. That's fine. We as a society have chosen to live with that and we live with that. But what is interesting is, and especially when you get to the library situation, is they have a perfect right to go into any library and say, "I'm Ivan Ivanovich, the Second Secretary of the Soviet U.N. Mission, and I'm interested in this material." And I don't think that it would cause any librarian any problem, it wouldn't cause anybody in the United States government a problem, but they won't do that. But they won't do that. They don't want us to know what they're collecting, and if he happens to be assigned to the U.N., why didn't he go to the Dag Hammerscjold Library at the U.N., which is run and operated by a Soviet, and get whatever information he wants. They have totally legal, acceptable access to anything, but the intelligence officers don't do it. They don't want to be identified as an intelligence officer, out collecting things outside the scope of their diplomatic assignment and they don't want us, the U.S. government, to know who their sources are because they want to guide and direct those sources, and I'll go throught the case in New York for you where it starts out doing research and goes on into collecting classified information. So that's what we're trying to do is first of all identify these people -- who are the legit diplomats, who are the spies? And once we have them identified then we're going to try and find out what we can do with that individual. And we'll try and either neutralize them, put a double agent up against them, which would mean a U.S. volunteer would come to us and we'll develop one and have those people have the opportunity to meet so we can find out what that individual is about. And then we will try and have them neutralized if we can negate what he's trying to do, fine, you'll never read about that. We'll have him PNG'd, and you won't read about most of those because it's a political decision made by our government and their government that they will send diplomats back and forth home earlier than their tour and not make a big deal out of it. Or, who'll arrest them. And then you'll hear alot about it.

The case in New York I wanted to point out to you is about a guy who was assigned to the U.N. Secretariat, a Soviet [???] (tape 1, #36) there, by the name of Gernardi Zacaroff (sp). You probably heard about that. His arrest spawned the arrest of our reporter, Nicolas Daniloff over there. A long story made short, there were 80 Soviets expelled and six U.S. citizens expelled. It got to be very big power politics. The case starts off very, very innocently. Zacaroff is assigned as a researcher to the U.N. He has total access to all of the U. N. information, legitimately, on behalf of the U.N. as well as his government, but he doesn't do that. He's out to places like Columbia University, Queens College in New York, trying to get students to do "'research' for me because I'm a Soviet professor, but I really don't want to go into where I work or what school it is, but I need your help. I'll pay you ten dollars an hour to do basic research for me. I'd like for you to go to the library and get copies of certain articles and bring them back to me, but don't tell anybody you're doing this for me, just keep this between you and I." So he elicited the help of a student who was here from Ghana who said, "This really isn't right." And this happens frequently. "Why would this guy be coming to me wanting to give me ten dollars an hour to go get copies of initially innocuous newspaper articles, and magazine articles and journal articles from the library, something must be wrong." So he came to us. And we said, "Yes, something probably is wrong, let's continue and see where we go." So over a two and a half period it went from initially get me copies of articles from the Queens College Library to trips to the University of Connecticut Library to steal microfiche, and here take these two briefcases and as you go out and the guard stops you and finds the microfiche in there, well say hey this must be a mistake it looks just like mine and you go back and get the other one. Not very complicated schemes, but good enough to work, bring the microfiche out, take it back to the U.N., copy the microfiche, give it back, take it back the next day. All this is basically a training program. They had him sign a document which said that in return for working for the Soviet Union they would pay for his education and when he got out of school, finished his degree at Queens College, he would try his level best to get a job in the Defense industry where he would have access to classified information. So we got him a job and we told him, "You're going to go to work. Tell the Soviet that you're going to go to work basically at a plant in the New York area that manufactures aircraft engines, but you're really not going to have access to classified information." So that whet Mr. Zacaroff's appetite a little more. So he said, "Okay you're working there, now we'll pay for your Master's Degree, but isn't there any classified information.?" "Well the only classified information is in my bosses safe." "Well go in his safe and just get it." So we arranged this, and at the same time he's doing this with several other people. Our major concern as we work these cases is we know about these three, and we know what kind of access they have which is none, thank God. But how many more does he have and how many of them might have legitimate access to legitimate classified information that's really hurting us. So you can't continue to run one of these things from an investigative standpoint for an extended period of time. So we wound up arresting Mr. Zacaroff -- only the third time in the last twenty years that the Soviets allowed someone without diplomatic immunity to accept classified information. We've had other cases where people without diplomatic immunity have worked up an agent, developed an agent that they referred to to the point that there would be a classified information exchange which is your violation of the espionage statute, but at that time someone shows up with diplomatic immunity to accept the document. This is only the third we did it. We coordinated this at the very highest levels with the National Security Council and the State Department because the last time we did this we arrested two of their citizens, they arrested six of ours. They work under a little bit ~~of~~ different philosophy over there, if they wanted to walk into this room and arrest us all, they have grounds to arrest us and we'll worry about that later. We will all have a trial, we'll all go to jail -- that's a guarantee. We don't operate that way, thank God. We arrested Mr. Zacaroff, they immediately arrested Mr. Daniloff. The President became infuriated, he threw 25 of their diplomats out of their mission to the UN. They still didn't budge, they threw six of our legitimate diplomats out, we threw another 55 out. Everybody called [??????] (tape 1, #42), time out. We have to run

Embassies, we have to get along, it's over. They made a mistake in this case by allowing Mr. Zacaroff to continue to the point where he accepted information. He is an identified line x ~~o and~~ S+T ~~t~~ officer. [redacted] We've been able to document this and we will keep it in the unclassified area that they have used this system in approach in specialized libraries since the early 1960's, especially in New York.

MR. NEWMAN: May I interrrupt. Your use of the term "specialized libraries" may be different than our consideration of specialized libraries. There is a Specialized Library Association which is medical libraries and technical libraries. Are you talking when you talk of specialized libraries of special sections of libraries?

MR. DUHADWAY: A little of both. I'm getting ahead of my story here. Scientific and technical libraries as well as some of the sections ~~of public libraries~~ that may have a very complete science or math section or what have you, but not the general book [?????] (tape 1, #43) public library. Again, these people have access to all of that information legitimately if they want to get it. They don't want to get it legitimately. They want to develop contacts ~~an~~ and associations that they can utilize to put either in other jobs or other positions, or develop people who can spot people for them. We've had Soviets tell us that they think it's better to recruit two librarians in a science and technological library than it would be to recruit three engineers who could put together a system, because those librarians have access to people, places and things that can front for the Soviet that the engineer can't. They think it's extremely important to have sources in libraries and to be in libraries so they can associate with students and professors that they get a chance to recruit which their normal job would not give them access to. And they do this all under a cover. And the reason I keep emphasizing this is that we are not there because we think they shouldn't have legitimate access to unclassified information. If it's unclassified anybody in this country has access to it, can have it. We don't have any problem with that. I don't think anybody in this room has a problem with that. But they don't want to be identified operating out of the scope of their "diplomatic cover" and obtaining information that they have legitimate access to and performing [????] (tape 1C #46)a different mission. And our concern is what is that mission, and the people out there doing it are not legitimate diplomat, they're intelligence officers and it's a very big clue to us along with alot of other indicators that they guy is, in fact, an intelligence officer.

MR. NASH: May I ask a question here? Are there cases of their having recruited professional librarians?

MR. DUHADWAY: Yes.

DR. MOORE: Did the professional librarians know they were being recruited?

MR. DUHADWAY: Some yes, some no.

MS. PHELAN: Did they come to the FBI to tell them they had been recruited.

MR. DUHADWAY: Yes. Some have, some haven't. When I go back to the student I described for you in the Zacaroff case, he didn't have any idea he was being recruited when he started either. He is a typical -- I won't say typical, everytime you say typical you get in trouble -- he's a student at Queens College, needs money, put his name on the bulletin board, said willing to do research, etc., and all of us can define research here in 50 different ways, need $10 an hour. This Soviet who's a legitimate diplomat at the United Nations was routinely going from college campus to college campus to do two things: to go to the bulleting board and take those names off and see what he can come up with. That's his job, he's an intelligence officer, he has to develop contacts. He took his name off the board, called him up and said, "I'd like for you to assist me in some research." And he had a heavy Russian accent. The double agent later told us, "I recognized him immediately as a Soviet", but he met with him four times before he called the FBI because each time it was very innocuous, very slow, what have you. And if they don't recruit an agent at a library, that's how they train them. They use that as a very tried and true and proven technique as to how to develop an asset. You send them into the library, you get them used to doing things for you. You send them into the library, he steals things. You send them into the library, he copies things. It's a very slow progression. And each time you pay him money for this. So you get the Pavlov's dog thing -- reaction, money, reaction, money and then you move him along and you say, "Well I really need more information -- could you get something that's restricted maybe, but not classified." And then you work him up to the classified information.

MR. NEWMAN: [??????] (tape 1, 49.8) years.

MR. DUHADWAY: This took three years before we arrested him.

MR. CARTER: What other professional disciplines or professional environments are targeted by .....

MR. DUHADWAY: Military people, engineers.

MR. CARTER: Academia?

MR. DUHADWAY: Academia, professors.

MR. NEWMAN: But librarians are more important than you thought to the Soviet scheme of things you see.

MS. VASICKO: Could I ask a question? You repeatedly use three words, and I'm not sure in the bottom line as to where you're going and where we're going and what we're supposed to do with all of the information you're giving us. Mission, recruitment and access. And if I'm following you correctly it's really recruitment situation you're concerned about as opposed to an access kind of situation that.

MR. DUHADWAY: Right. We're concerned about their recruiting U.S. citizens, or what's defined under the law as U.S. persons. Anyone here is legally a U.S. person as differentiated from the U.S. citizen. We're concerned about Soviets recruiting those people to do illegal things starting off with probably legal. And we're concerned with -- your first word was again?

MS. VASICKO: Mission.

MR. DUHADWAY: Mission - what they're trying to do. We need to know what they're trying to do.

MS. VASICKO: Right. I think I'm understanding what you're saying, what they're trying to do and so in the terms of the recruitment and his access to information.

MR. DUHADWAY: Right. We don't care about his access to information because again I'll start .... if Zacaroff wanted to walk into Columbia University and say, "I'm Nattie Zacaroff, I'm the second secretary at the United Nations and I'm interested in x." They do that all of the time. What's very interesting is legitimate diplomats normall don't go to those types of libraries. If he needs something they go through the normal channels. If he was a U.N. employee, he would go to the U.N. library and say I need x, x and x. The non-legitimate diplomat who normally is engaged in trying to recruit people is out in the university libraries, the specialized libraries, doing things outside the scope of his employment.

MR. NEWMAN: Is it safe to say that the legitimate Russian would not be seen in an American library because he knows he would be identified as a GRU or a KGB agent?

MR. DUHADWAY: Yes, under, there's a twist. I mean they certainly go to the libraries, but they don't do it in a covert manner that the intelligence officer does. And if he needs something for his legitimate diplomatic misión, he has legitimate, diplomatic channels to go get it and noone in this country is going to care.

MR. NEWMAN: Sally Jo mentioned three items. There's really a fourth as I listen to you and that is identification of who is a Soviet and that's probably your most important.

MR. DUHADWAY: That's what we're trying to do. Now what happened in New York is very basic to us. And first of all we're not concerned about people having access to information -- it's legal, it's non-classified information. This country has made a decision and it is not the FBI's business as to what's available. That's not our concern. The sharing of information is not our concern. It's how they go about getting it and identifying intelligence officers so we can then run a double agent case or try to develop other assets, informants if you will, against them. In New York as I said we've documented since 1963, and this has also taken place in Washington, D.C. and San Francisco, but primarily in New York, their use of specialized libraries. Since the early 70's we have routinely contacted specialized libraries and alerted them to this kind of activity that takes place and asked would you please alert us if you see something that you think is out of the ordinary. Prior to reinstituting routine contacts in specialized libraries, we went to the President of the New York chapter of the Special Library Association and explained to her what we intended to do. She, in turn, contacted the Executive Director of the Specialized Library Association in Washington, D.C. and said FBI agents are going to go to the library to explain our [???] (tape 1, #55). And everything I've told you here is nonclassified and we could share that with anybody and we've done that and until we received a complaint from a librarian at one of the universities, we had probably contacted 25 specialized libraries and talked to the people, explained our problem to them, solicited their help as a U.S. citizen, and it's everybody's right in this country, and thank God it is, that if you want to help us fine, if you don't want to help us, fine. It's not against the law or [???] (tape 1, #56). It's your decision to make, but we're not trying to make librarians into spies. We want them to call something out of the ordinary to our attention. And the investigations are just like in white collar crime, we get a an allocation that, I'm going to use your name in vain here just as an example, that Commissioner Daniel Carter, who gave the fiscal report year, as embezzled some of the library's funds. Now, we conduct those kind of investigations all of the time. I'm sure that Mr. Carter would be pleased to know that as a result of our investigation he's been cleared and there's no problem. We do that all of the time with allocations of political corruption. We, in fact, prove people's innocence as often or not, more often, than we do their guilt. If someone were to tell us that Tom DuHadway, alias Ivan Ivanovicz is in the library and looking strange and is called to the FBI, and we would say, no he's a legitimate diplomat, he's fine, there's no problem. We would tell you that. But we would also like to know what was strange about him, what was he doing there. When you tell us we're going to know more about him -- why Tom DuHadway was there, what was he doing and that's really out of the scope of his [???] (tape 1, #58).

MS. VASICKO: When you alerted the libraries involved what was their response, what was their reaction?

MR. DUHADWAY: Very favorable, fine. With one exception and I'll get to that.

MS. HASHIM: Are you going to talk about the Columbia University situation? Then I'll wait because I have some comments I'd like to make about librarian's point of view from special libraries in contrast to public and academic libraries. There's a different mind set there and I think you people have real pr problems on your hands.

MR. DUHADWAY: Oh we do have pr problems. I don't know, but I'll be happy to pass around here -- I'm getting ahead of the story here and I'm trying to watch the clock.

MR. NEWMAN: We'll take as much time as required, I want you to know that.

MR. DUHADWAY: We had been to other segments of Columbia University in their specialized library system and have had no problems and have had excellent response, and we have evidently struck a chord with one librarian who thought this was atrocious and said she would not cooperate, and she said it's a violation of the first amendment and I'm going to call the Intellectual Freedom Committee at the American Library Association and she's gotten on a letter writing campaign, and, as a result, other people have agreed with her and there is this mailing that goes out under the office of Intellectual Freedom, American Library Association, out of Chicago and it puts out an advisory about the FBI activities in libraries and requests that state librarians, I'm showing my ignorance here, heads of state library associations, write their congressmen and senators and they want the congress to look into this. Well when the New York Times article came out I was selected -- I get these choice assignments frequently -- to go up and talk to Congressman Edward's subcommittee on constitutional and civil rights. I appeared before that group, the councils and explained to them what we were doing. I also appeared before the House and Sentate Intelligence Committees in closed session and explained to them what we're trying to do, so I want to assure you before this call[??????????????????????] (tape 1, #61) went out I was already there and I've talked to those people and have explained to them just as I am explaining to you, maybe with some more detail becasue we're in a sealed vault, classified type of area, but I haven't kept any saliant facts from you and they have been satisfied that this type of inquiry is not a tremendous infringement upon anyone's right, chilling by definition, we could argue that, so on and so forth. But we did write letters back to the people that complained to us explaining what it is we're about and then we got letters in return equating us talking to a librarian, us being the FBI talking to a librarian, being equated with the enterment of the Japanese in World War II as well as the black listing of U.S. citizens during the McCarthy era. And there is a letter writing campaign of that vain going on from the library associations coming up to congressmen also. And it's a very viable, emotional issue, we recognize that. We think we're very professional in our approach. We think we have a very legitimate approach. We emphasize to them we're not interested in the identities of library users. We don't want you to be a spy. You're not trained to be a spy. If, in the legitimate course of your business, you see something you think we ought to know about, please tell us. And you should also know from an educational standpoint that there's a possibility that you could be an individual target of a recruitment [???] (tape 1, #63) and if you see certain types of things taking place, maybe you want to call us [redacted]

MS. HASHIM: Well, I've worked both in public libraries and special libraries, and by special we mean corporate, medical, legal, all the kinds that can't be identified as an academic or a public or a school or a special library. It seems to me that from all that's happened since the Columbia incident, as I said you have a pr problem because you may not know or maybe you didn't know before you got into this that in the public libraries and in the academic libraries, in particularly, most librarians take it as a very serious commitment to never reveal the identity of library users, to never deny access to anyone who comes in and as you said you don't seem to care that if it's an open collection that people are using it. However, they think you do care.

MR. DUHADWAY: Right, that's the issue.

MS. HASHIM: That's where you have that big problem.

MR. DUHADWAY: We were aware of that.

MS. HASHIM: Because, also in the beginning when Jerry was making his introductory comments, our job as Americans, all of us, is to defend the Constitution and to uphold the Constitution. The Constitution includes the first amendment which librarians are really hung up.

MR. DUHADWAY: They should be. They should be.

MS. HASHIM: I'm not trying to be critical of you, but I think you ought to know these things if you don't know. Now I'm not saying that special librarians have any less commitment, but there's a little different mind set because in special libraries, particularly those in companies who have contracts, and therefore, the librarians and staff of the company of security clearances.

MR. CARTER: Proprietary interests too.

MS. HASHIM: Proprietary interests as well, are much more used to handling classified information, not allowing people who don't have an appropriate clearance or a need to know, the right to look at alot of things. Also in special libraries they don't keep circulation records the way they do in public libraries and academic libraries because anybody who works for that company and has a company badge can take out materials or use materials, however, clearances are always checked before they get acccess. But I say this just as background for you in case you didn't know that segments of the library community and the commitment are different and I, as a Librarian, am totally committed. Well, I should go back and say that I'm an American citizen before I'm a librarian and I'm totally committed to what my country stands for. I am, however, on the Council of the American Library

Association, that's the governing body. I am an elected official of that Association. I uphold access to information as a very important thing. My personal and professional concerns may be somewhat different, but they really shouldn't be.

MR. DUHADWAY: No, they should. I think that's very healthy.

MS. HASHIM: But I think that, you know, as I said, as a Member of the governing body of the American Library Association, I'm not going to say to you or to anyone that what the Office of Intellectual Freedom is putting out is alot of garbage.

MR. DUHADWAY: Not asking you to say that at all. Wouldn't want you to say that.

MS. HASHIM: No, I know. Or that I disagree with it, or that I disagree with the principles of public and open access because that's the first priority of the association that I'm an active Member of. If I didn't believe that, I wouldn't be a Member. On the other hand I think I'm a very loyal American. I don't know, I don't know how to resolve the dilemma because I think it's a dilemma for you and I think it's a dilemma for the profession.

MR. DUHADWAY: Sure it is.

MS. HASHIM: And I think unfortunately there is a great misunderstanding between the Members of the profession and the government and what they're trying to do. The same thing with the sensitive, but unclassified issue. And we need, if we're going to have a democracy we need to have an educated citizenry, we need to have an exchange of information, you said so yourself and I know you believe it.

MR. DUHADWAY: That's why I'm here.

MS. HASHIM: We all believe it too.

MR. DUHADWAY: Certainly.

MS. HASHIM: And I, I don't know what the answer is.

MS. FORBES: We could do with a few less librarians who are so naive in these things.

MS. HASHIM: Well I don't know what you mean by naive Wanda. You know lots of librarians, and I think it's a bad thing, and I said this publicly when I first became a librarian and got active with the library association. One of the things I wanted the library association to do was to get active politically because they were looking for money from the state legislature for support of various programs. But to all of those people politics is a dirty word. And I was horrified because I've been involved in politics long before I became a librarian. And I said you know you've got to change your mind because unless you're going to be aware of what's happening, you've got to be active politically, you're never going to get anywhere. And alot of people in the library profession have come a long way since the early 70's in that. But the problem, I think, lies with there are many who are not involved, but there's a problem there because if you're employeed by a municipality and you're a library director or your're just working in a public library or whatever, you're not encouraged to be involved in partisan politics for a number of reasons. And so alot of librarians have stayed away from that process and they may be the ones you consider naive because they're not aware of those processes that many of us have been aware of for a long time.

MS. FORBES: Okay, for instance if you get a letter from the state library, their newsletter, and it's partially paid for with federal funds, but yet it calls attention to the fact that the FBI might be coming around to your library, and it doesn't say there may be a need for you to give assistance to people who are trying to protect this country. I'm saying that there's something wrong when there's only one side presented here.

MR. NEWMAN: There's a big gap. Well that's why I wanted to have this session and then determine where we go from here. One of the things, and it may be an over simplification, but is the librarians's responsibility as a citizen no less than you or I looking out of our house window and seeing someone who looks suspicious across the street, around your neighbors house, around your neighbors car, and you call the police to come and take a look. Now that may be an over simplification, but as far as the national picture is, I really don't think it is.

MR. CARTER: What is the Bureau's strategy. Has it developed a strategy to deal with this situation?

MR. DUHADWAY: Well part of the strategy is is to come here to talk to you all and we have tried to talk to the Intellectual Freedom Committee of the ALA, but we have a tremendous pr problem as you say. We've done it in writing, but they don't accept what we say, and they're not going to accept what we say. If I might go back to your analogy. When you're talking about classified libraries, we don't have any problem. Restricted access libraries, we sometimes do have a problem. There are certain sections of specialized libraries that are supposed to be restricted. And those are some of the areas that we find our Soviet friends out mucking about in. They really shouldn't be there. But they also, if the librarian wants to give them access to that kind of information, that's her choice. There's an alledged, not an allegeded, but a specified group of people who are to have access or anybody who gets there, and they end up in that " or anybody." But corporate libraries, or people who handle classified information, we don't have a problem with that at all.

MR. NEWMAN: Bessie brought up a point I'd like to interject. I have found that at our New York meeting, and this got me a little upset, was it was claimed that there was no response from the FBI. I don't know how many of you were at that meeting, but the Intellectual Freedom's Committee put out a publication which said there was no response from the FBI. But yet in my contacts with the FBI I found there had been a response, a written response.

MR. DUHADWAY: We printed our response.

MR. NEWMAN: I think that's after I jabbed a few people.

MR. CARTER: That's what I was asking about.

MR. NEWMAN: They were less than honest at our meeting.

MR. CARTER: Do we need an education program?

MR. DUHADWAY: You're in a dilemma here where we can't go out and publicly accuse every Soviet of being a spy. We're trying to do a limited, specialized educational process of people who are professional, very concerned about what they do, do it on a very proper and highly educated level, and serve a very useful purpose to this country, and that's the sharing of information. These people are targets. You take a different group of people who have the same intellectual level, the same concerns, and maybe the same access to classified information. We go through an educational process with them and say you might be a subject of a recruitment and we don't get that back. Now [????] (tape 1, #80) the problem. We're not searching for lists of library users, what have you, we're looking for the anamoly that takes place in a library that raises the antenna of that professional person who thinks that something is wrong. Maybe it's not wrong. We'll do whatever we need to do and it's over and done with, but if it is wrong all we're looking for is a little help.

MS. PHELAN: Okay. Let me give you just a little background on myself. My brother in law, we used to laughingly say, not laughingly but in jargon, he chased commies. He was with the FBI. He is not living, but he didn't die in the line of service, so I sort of am very partial to the FBI. Number two, I am a librarian, I do business research. I work very much in scientific libraries. I also know who I am working for. I do have some information about or ideas about what you're talking about. In the scientific library that visit frequently, nobody asks me what my name is, they are open stacks. I am amazed at the information that there is there. But I can wander around there, I know what I'm doing, hopefully.

MR. NEWMAN: Which library is this?

MS. PHELAN: The Linda Hull Library in Kansas City. I can go to what I'm looking for and get it, you know. I can make copies of it. The librarians don't know anything about it. I mean they do know who I am, they know me by name. But somebody else can come in there and do the same thing and the librarian is busy doing his or her thing.

MR. DUHADWAY: We would not have a problem with that.

MS. PHELAN: I know, but what I'm saying is ....

MR. DUHADWAY: If the Soviet went in and did that legitimately, fine.

MS. PHELAN: But the Soviet could go in there and do it anyhow and nobody's going to know it because he or she is going to look just like me. The other thing is I don't believe you're going to find any type of information like that in the public library.

MR. DUHADWAY: No, we're not in public libraries. We're not out to talk to the public.

MS. PHELAN: I know it. You're only talking about special or scientifically-oriented academic libraries, that's all. We have open stacks. I don't think there's anybody that could say she looks peculiar and could be.

MRS. WU: But since it's a problem that involves the scientific, the special library, the technical libraries, do you intend or plan to expand your awareness program to this group.

MR. DUHADWAY: No, we're in, that's, we are where we want to be. We've contacted most all of them. But there are occasions where we have to go back now and contact librarians. Now when we go it appears in the paper again that the FBI's out here doing something wrong again and it's based on this letter writing situation and I'm trying, maybe I'm not getting it done, to , we don't have a broad-based plan to go out and talk to all of the librarians. We have a specialized problem in New York, Washington, D.C. and maybe San Francisco with the Soviets. Very,

very limited, small approach, very closely held. However, we have upset some people and they have a legitimate right in this country to print what they want to print -- they don't have to print both sides either.

MR. NASH: I'm still a little unclear of what you expect -- let's say there had been no publicity and this program had simply gone on on to what I understand to have been a deliberately low key manner, what kind of specific information would ...

MR. DUHADWAY: Would we want from a librarian?

MR. NASH: And perhaps that you have already gotten back.

MR. DUHADWAY: The types of things that would cause the librarian to call us is if she were being developed by a Soviet to the point where she had some doubts in her own mind as to what this individual was trying to do, and get access to and manipulate her. Does she see someone routinely, systimatically copying microfiche, or stealing things. Does this come to her attention? These are real anamolies of library use and that's what we want to be identified, that's what we want to be notified of. We don't want to be notified about circulation lists, I could give you a whole long list of things, but those are the types of things, and we don't want the librarian to act as an intelligence officer for us. He or she is not trained to do that. We would like to be alerted if I think there's a potential problem. That's it in a nutshell. It's confidential and it's over.

MR. NASH: Let me just follow up on that just a bit. Since yoou initiated the program you say you have received cooperation for the most part. I assume that means people saying yes we'll call you if we notice something. But in hard factual terms is it worth it, I mean are you getting, you are getting .....

MR. DUHADWAY: Yes.

MR. NEWMAN: He wouldn't fly down from Washington this morning to be with us this afternoon.

MR. DUHADWAY: It's an important program. And it's not a big program. I don't want to give you the idea that FBI is trying [????[, Tape 2~~, 44~~) to talk of all librarians. We're not and don't intend to.

MR. NEWMAN: I think it's important to note also as Mr. DuHadway said when he started that they have very limited resources really to this entire counterintelligence, devoted this this entire counterintelligence problem, and this is one of those sources they find very valuable in identifying foreign agents and those intelligence officers are attempting to subvert.

DR. MOORE: Of course all of these perceptions -- we were dealing with perceptions last night in a different area -- these perceptions get embroiled and then people build up something. For example, somebody took your name in vain I heard this morning at the Council meeting. They said you had, they indicated, somebody suspected that you had been in favor of the FBI doing this. Did you hear this?

MS. HASHIM: I was at the Council meeting when a Member of the New York Library Association got up and said that Mr. Newman, the Chairman of the National Commission had been a speaker at one of your meetings ...

MR. NEWMAN: Oh I spoke at the Nassau County Library Association ...

MS. HASHIM: ...in Nassau County and apparently the librarians were rather exorcised about the Columbia incident and questionned Mr. Newman about it and that person reported that Mr. Newman seemed to be in favor of what the FBI was doing and that angered all of those librarians. And just let me finish and then you can say whatever you want to say. These comments were made after the latest Intellectual Freedom Report was given at the Council yesterday. The person who got up and made these comments said, "I think that you should keep the National Commission informed about what you're doing because obviously the Chairman of the National Commission is [?????] (tape 2, #6). Chris was there too.

MR. NEWMAN: Okay, well let me say this. It's nice to become so famous or infamous. But at the and I'm going to give you exactly the statements that were made. I said that one of the things we were looking into was the FBI awareness program. And that's all I said at the open meeting. However, I was ganged by afterwards by three people and they said, "Are you doubting the infallibility of the Intellectual Freedoms Committee?" And I said, "You mean the Intellectual Freedoms Committee can't make a mistake?" And they said, "No, they can't make a mistake." You heard that?

DR. MOORE: No, that, no I didn't hear that, but that's what gave, I mean the impression that ....

MR. NEWMAN: And I said "You mean they can't make a mistake?" And they said, "No the Intellectual Freedom Committee could never make a mistake." That's a direct quote by the way. Well when people are that rigid you can't talk to them. And I said "Okay, but I just want you to know we're looking into the problem and we haven't reached a conclusion." If that indicates that I seem to favor the FBI, so be it. I told you that since then, and based on what I've been told, I personally, and I told you before we started so you'll know exactly where I stand, I don't see absolutely anything wrong with what they're doing. I mean if they're doing anything wrong, then God save this Republic. I mean ...

MS. VASICKO: They may not be doing anything wrong, but it's the perception that there's something not right.

MS. HASHIM: Yeah, and that's unfortunate because people do go by [????] tape 2, #8.

MS. VASICKO: Perception.

MR. NEWMAN: Well part of the problem.

MR. DUHADWAY: Perceptions are realities.

MR. NEWMAN: You know the real problem, if I may say in this closed meeting is the Intellectual Freedoms Committee. Okay I've been reconfirmed for five years by the President and the Senate, but I will say they are the problem. They have not reported all sides or even what it's all about. They have made it look like the FBI is going after every library and they are coercing them into reporting on whoever comes in and borrows books. And you know -- I'll state it -- that's what the problem is. And it may be a tempest in a teapot, but a very important counterintelligence program is being not [????] tape 2, #8.8, but is being made the scapegoat in order to give people publicity that they're doing something worthwhile for the American Library Association, and that to me is a disservice. Vivian. By the way, let me say Vivian is our inhouse traitor, she is giving up as Executive Director on Sunday and we hate to see her go in the worst way. But Vivian was the head librarian at the Rand Corporation and she is going back as the Corporate Secretary of the Rand Corporation, which does deal in much of the kind of things that you're interested in and I might say that she's been a Member of the Specialized Library Association - President of the Specialized Library Association, and it's really to all due respect to all of us, is one of the experts I would think, concerning specialized libraries.

MRS. ARTERBERY: Well one question I would have and is really a follow up to Elinor in the area of perception. It seems to me that one way, since we are conditioned and we have this open society, it seems to me that one approach that could be made, is that when programs of this, now we know, that when programs of nature are going to be implemented, it would probably would be a good idea to sit down with the principals, if it didn't interfere with the program itself, and just get this is going to be implemented and you have to [????] tape 2, #10 an open discussion of it.

MR. DUHADWAY: You're absolutely right. And we made an attempt to do that. There are two key things and pardon me for interrupting, please go ahead and finish and I'll remember what I was going to say.

MRS. ARTERBERY: No, go ahead.

MR. DUHADWAY: [redacted] The New York Times article made us look like a wholesale, widespread thing, and in fact, it is not. But you're right. When we can talk about programs in the open and what have you, we do that. We don't like to discuss with the general public sources and methods. [redacted] We have to be able to talk about some things because we rely totally on public help and assistance and if we don't get it we're in trouble. So we make a conscious decision that we talk about things, but not always on the broadest scope as maybe should be and your point is very valid.

MRS. ARTERBERY: The second observation is it seems that if the FBI had gone to the Director of the Columbia University Library and, in confidence, discussed this as a problem, that perhaps it could have been worked through the system and not .... maybe the person at the desk isn't doing any kind of thinking.

MR. NEWMAN: I don't think it was the person at the desk.

MR. DUNADWAY: It wasn't the desk.

MRS. ARTERBERY: I mean the librarian.

MR. DUNADWAY: It wasn't a desk situation, it was the Director of one, but I asked the same question serving in an administrative capacity at what level had we gone, and they were going to the different director's and maybe they hadn't gone high enough and your point is very well taken - very valid.

MR. NEWMAN: As I remember the Times article Vivian, this was the Director of the math and science ....

MS. HASHIM: Yeah, but that's only one of the libraries Jerry. You see the person who directs the Columbia University Library is a Vice President and directs all of those libraries.

MR. NEWMAN: But let me just say this. My daughter is a graduate of Barnard, which is part of Columbia University, and you know, again, it just so happens that the person who blew the whistle was the principal Viet Nam, anti-war person on campus. So let's understand it wasn't done in a vacum, it's just, maybe the FBI didn't do their homework and know who they were asking. But maybe that's homework that you're not allowed to do under the law. But let's understand that that's what happened in that situation.

MR. DUNADWAY: But your point is well taken. I asked that very point. It may have been better to do that but that doesn't turn out to be the issue. It might have solved some of the problems, but the issue is with us now.

MRS. ARTERBERY: But you are saying that in these cities this is a continuing problem, so it seems to me that it's not too late to remedy the situation.

MR. DUNADWAY: No it's not. No, it's not. I don't know if it will remedy it, but it's not too late at all, I agree with you.

MRS. ARTERBERY: I think it probably will because I observed, after the Commission held it's hearing on sensitive, but unclassified information, that there was a visible change and a real change in the information community once they were informed.

I think now that may or may not be the case because later National Security Director Carlucci did rescind part of the directive, but even before the directive the comments from the people who attended the hearing and had opportunity to hear both sides in a balanced way seemed to have a change of point of view.

MR. NEWMAN: A more moderate tone.

MR. DUHADWAY: Point well taken.

MR. NASH: Just to follow up on that, I wanted to ask what steps have been taken to resolve this gap in perspective, specifically with the ALA, which has been a critic of yours in this.

MR. DUHADWAY: Well, we've written to the ALA, we've spoken with them and they take our words and put it the newspaper [????] (tape 2, #15) and there's not a, we don't have a battle with the ALA. We've not attempting to appeal to [??] (tape 2, #15) the libraries that are controlled by them, we're not serve to [???] (tape 2, 15) general public libraries, that's not our forum.

MS. HASHIM: But you still have this perception problem still and I think you need to recognize whether you agree or disagree with how they do things and what they do, the American Library Association has more than 45,000 members, they are the most powerful library group in the country

DR. MOORE: In the world.

MS. HASHIM: Probably in the world. But you know that's a big problem for you to have them on the other side of the fence.

MR. DUHADWAY: But I don't think the library association is on the other side of the fence, I think we have a segment in here. If the American Library Association was on the other side of the fence, the dribs and drabs of writing to congressional people, they would have been buried in mail.

MS. HASHIM: Yeah, when they get out of [???] (tape 1, 16) they do bury the Congress.

MR. DUHADWAY: For me to appear or my Director to appear before the Intellectual Freedom Committee is, I don't think, going to solve the problem. I'll say this because we'll get into it's a first amendment problem and they can have ~~say~~ as many attorneys to say it's a first amendment issue as I can find who says it has no bearing on the first amendment, all of which will be scholars. And you solve ~~saw~~ no problem. If I thought that the American Library Association was against the FBI I would be knocking on the doors of the Executive Director's office all day long until they would speak to me.

MS. HASHIM: I hope not.

MR. DUHADWAY: I hope not anyway.

MR. NEWMAN: [redacted]

[redacted]

MR. DUNADWAY: We realize it's a very emotional issue and the thing that they put together is studious, professional, what have you, yet receipients haven take that and added on that it compares to (???????) (tape 2, #18) internment of Japanese. I mean so we're aware that the emotions are there. I don't know how to solve the problem with the Intellectual Freedom Committee. I don't think I can solve it.

MS. HASHIM: Well, my concern in the misunderstanding part of it is, that you know, ALA has alot of different publications. There are people who are not necessarily on the mailing list of the office of Intellectual Freedom who will read these things or parts of these things in various publications who do not attend alot of meetings and they're going to take this gosple what they see. And that's a concern.

MR. DUNADWAY: We tend to lose somewhat too if we get out in a big public situation with the ALA and an intellectual debate, which we wouldn't run away from. We expose everything we're trying to do to our own detriment whether we solve the problem or not. So there are some factors to be considered along those lines that we tend to throw the baby out with the bath water so to speak.

MR. NEWMAN: Again, getting back to that point. If they go out and broadcast what they're doing, the Russians will just change their methods, and I think that's important to note. Now Bill Casey and Vivian. I mean, Bill Casey, I'm sorry. Dan -- from New York.

MR. CASEY: I have a number of questions. Let me go through them first before I yield to someone else. In regard to the librarian reporting to the -- are those librarians capable of detecting a hostile, foreign individual, represented a foreign individual. What special skill makes them capable of...

MR. DUHADWAY: We're not asking them to be a spy, Mr. Casey. What we're asking them is to report an analogy, an anamoly to us that they think that something's wrong.

MR. CASEY: Suspicious conduct.

MR. DUHADWAY: Yes, or known illegal conduct, known theft, someone who's here who's really operating out of the scope of his or her situation.

MR. NEWMAN: What they tell us is an indication that, okay it's an unclassified indication cause the man was arrested and was working out of Queens College Library.

MR. DUHADWAY: There's no magic to it.

MR. CASEY: Okay. I will simply comment that you have a clerk on duty and one of them thinks that what a "Dan" is doing is very, very suspicious and wonders about it and wants to call you. Now the next night another clerk is working, "Dan" comes in and has a conversation and that second clerk doesn't think anything is wrong. So you see you have people behind the desk who have different perceptions of individuals, so that's one difficulty.

MR. DUHADWAY: We realize that.

MR. CASEY: Let's assume now that the individual is met by you, you asked to see the person, or in some way you come in contact with the person and the person is found innocent, now wouldn't the librarian or the board of trustees to the library be libel for having false arrest?

MR. DUHADWAY: No, there's no arrest.

MR. CASEY: Well what's the use of finding these Russians if you're not going to anything to them?

MR. DUHADWAY: We can't arrest the Soviet anyway, he has diplomatic immunity. But we can find out what it is he's doing, what he's trying to seek, who else he's operating, does he have other sources. His job is the same as my job...to go out and develop sources of information for both public and classified information and to get that information and take it home. That's their job. We're not going to arrest them. We might have them pNG d. ~~and grd~~ or what have you. There's no liability. What if you told us, you said, "The guy is acting funny." That doesn't cause him to be arrested. Our investigation and detailing of his illegal activities causes him to be arrested. The librarian has not status or standing in it at all.

MR. CASEY: Now another thing, I'd like to have your opinion of the 36 states that have confidentiality of a circulation of record. It's not totally in your area, but I have some other questions, but while you're here you know that 36 statese have laws protecting confidential library circulation records. What is your opinion of those laws?

MR. DUHADWAY: I think they're right. What's wrong with them. Nothing. As I said when I started, I have no problem with confidentiality of lists of users, we're not interested in that at all. We're interested in the misuse of the library system and the attempt to recruit the librarian. Those laws are fine and the open sharing of information is fine. The more we can educate people, the better off we are, including the Soviets.

MR. CASEY: Now what did you tell us this afternoon that the Russians [†?????] tape 2, #22 already know.

MR. DUHADWAY: What did I tell you? Our concentrated effort, what we think is a very important identification tool.

MR. CASEY: Well don't you think that the Russian's realize that you're using libraries?

MR. DUHADWAY: We haven't confirmed it.

MR. CASEY: Well if they bought the New York Times they know what you're doing.

MR. DUHADWAY: Not everybody believes the New York Times or the Washington Post and not to impugn you sir, but I know you don't believe everything you read in the newspapers because the story changes three or four or five times and as it progresses through, especially if it's a fast-breaking story a good 60 percent of it is going to be non factual.

MR. CASEY: Now your point has been directed at the Special Library Association, but there was a public library which your agents entered, the Brooklyn Public Library.

MR. DUHADWAY: Yes to talk to them about a specialized section and he said it no longer was a federal repository. We said fine, see you. And then they blew it [???[-tap~~e 2, #02~~3] out of proportion and that's inaccurate.

MR. CASEY: The agent, FBI agent, told a staff member of Brooklyn Public Library that there was a possibility that persons acting against the security of the United States might be using libraries to gather infomration and the librarian should be aware of this and provide [???????????] tape 2, #23.

MR. DUHADWAY: That's right. He asked him why he was there and he said why he was there and he left.

MR. CASEY: Now the point made by Miss Hashim was very well made that perhaps when you first enter a library you should go to the director or the top person. Now the story I have in the Columbia University, you first approached a clerk, the person at the front desk, a clerk . . .

MR. NEWMAN: Dan, did you hear the response?

MR. DUHADWAY: That's not correct.

MR. NEWMAN: He said that's not correct.

MR. CASEY: Well, okay either Columbia is right or you're right.

MS. HASHIM: That's what Judy says.

MR. CASEY: Well it says that the details of visit to the library at Columbia that two agents requested information from a clerk about the use of that library by foreigners. Before coming here did you submit our social security numbers to the Bureau in Washington?

MR. DUHADWAY: No. I've never met you before and don't know anything about you.

MR. CASEY: You did not. Was an examination of a dosier [???] tape 2, #25

MR. DUHADWAY: One, I don't know. One you take for a given there's a dosier there, I can't say that. And no is the answer to the ~~[???[tape 2, #26~~ second question.

MR. CASEY: I did not know why you're speaking to us in more confidentiality than you speak to the general public. Perhaps we have a higher sense of trust or something like that, I did not know...

MR. NEWMAN: Dan he's speaking to us, if I may say, for two reasons. One, we are the National Commission on Libraries and some way or matter this is going to end up on our plate. Number two the FBI does not want to talk to the general public because it reveals how much interest they do have in pursuing this program.

MR. CASEY: Now I gather from what you're saying you do not want to speak to a meeting of the American Library Association or any large group?

MR. DUNADWAY: It doesn't solve the problem. It creates more of a problem.

MR. NEWMAN: It gives them more ammunition.

MR. CASEY: Because the next meeting is in New Orleans and there will be 15,000 people there and they would all like to hear from you.

MR. DUHADWAY: I'm sure they would and I'd like to give them the same spiel I've given you, but I don't think, Mr. Casey, it's going solve any problems.

MR. CASEY: What is your opinion on the hearing, the sensitive but unclassified information. We took a great deal of testimony. Do you have any [???] tape 2, #27.

MR. DUHADWAY: I'm not aware of what your testimony was. I know the problem. I know it from an investigative standpoint. I know it from an intelligence officers standpoint, but I can't speak to something that I don't know what you've got.

MR. CARTER: It seems to me that one of the things the Commission could do is to investigate all the facts to our satisfaction and either elect to or not to generate a position paper that says one thing or another. One of the things it could say is that we believe the FBI is charged to do certain things for our national security, we believe it's important for them to treat citizens with great care and caution in pursuit of this, we believe that on occasion citizens don't fully understand or appreciate and to extend, if we feel comfortable, if the Commission feels comfortable we should make a statement that we believe in this particular instance that no wrongdoing took place and . . .

MR. DUHADWAY: Well I would prefer not to be a part of your discussions here. If I can answer questions -- I appreciate what you've said, but I'm not in a position to either hint, recommend, not recommend, all I can say is that I ...

MR. NEWMAN: He's not asking us to do anything. The FBI does not want to influence any segment of American public or private ....

MR. DUHADWAY: I'm just trying to give you our side of this story since it's going to

MR. CARTER: So this investigative process.

MR. NEWMAN: Yes, this is our investigative process.

MS. FORBES: Are we going to make any announcement of any type about

MR. NEWMAN: I don't know that we should, but I think we discuss, I mean discuss what, if anything, we would want to do, but that has nothing to do with Mr. DuHadway.

MR. CASEY: Perhaps it would be a little easier for me to understand. Say that I'm a library clerk and you walked in and you were either with diplomatic immunity or not, what would be some of the things that I would see you doing that would cast some suspicion on my mind and after the library closes I call the FBI offices

MR. DUHADWAY: Depending on what you said to her, you solicited her help in doing research, you asked for identities of some students that might help me do research that you don't think sounds proper, stealing material, misfiling material, trying to get copies of things that don't jibe with the conversation. It could be a whole number of things and again to the next clerk it could all sound normal. What that librarian tells us doesn't mean or make that person a spy. We just want to be notified.

MR. CASEY: Would you want that librarian to tell you what that person is wearing, and the person's appearance, glasses and hair.

MR. DUHADWAY: No.

MR. CASEY: Well how would you know what person to start looking for.

MR. DUHADWAY: By description we'd probably know; we'd have an idea.

MR. CASEY: You do want a description then?

MR. DUHADWAY: Physical description. I don't want to know that he has a gray and red checked tie. You give me a general description of who he is I'll be able to tell.

MR. CASEY: But you'd want to know the color of hair, glasses, or height or something.

MR. DUHADWAY: Whatever.

MR. CASEY: There's got to be enough description of that person of that person so that when I call your agent's office ...

MR. DUHADWAY: You can't say Joe Doakes was here, well how do I know Joe Doakes, certainly.

MR. CASEY: You've got to have some sort of description.

MR. HOYT: Just a small kind of logical extension. Does the problem extend into graduate schools themselves, let's say graduate library schools with recruitment of students let's say overseas and then financed to attend your graduate schools?

MR. DUHADWAY: Sure we've had that.

MR. HOYT: And then on into

MR. DUHADWAY: We've had that. That's a major concern to us that the Soviets are out recruiting our students [???????????] ~~(tape 2, #30)~~ pitches ~~in~~ our students when they're overseas, a very delicate condition.

MR. HOYT: And then in reverse, that is, overseas students from other countries coming over here and enrolling

MR. DUHADWAY: They have better access to those people here than they have in their own country. They're very active about it. The ideal aspect in the Zacaroff case was here was a third world, relatively poor student from Ghana who, they would help pay his education, get him to sign a contract, a literal contract that he will work for the Soviet Union, we'll pay for your Master's, we'll get you out, and we'll place you in a job and we'll take whatever time we need to get whatever information we need -- it's a goldmine and it's quite offensive, I think, for this country to have Soviets out recruiting students. That should raise alot of hackles and they do it, they do it as a routine, but I'm not going to stand out in the public and say that.

MR. CASEY: Well how can a Russian get a job for somebody in an American company?

MR. DUHADWAY: They steer them to get the right job.

MR. CASEY: Oh, they don't actually call the companies and ...

MR. DUHADWAY: Oh no, no sir, this is all, if it wasn't ~~was~~ covert at all Mr. Casey we wouldn't care, we could care less.

MR. CASEY: They'll direct one of these nationals to a company where the individual might be employed. This individual has been well trained, Master's, and a graduate person works into an area of classification in that company, but he still feels an allegiance to this ....

MR. DUHADWAY: A relative alllegiance, they pay the money. He'll have [~~????] (tape 2, #32~~) to get a classified clearance. They've got him by the throat by the time he gets to that position.

MR. NEWMAN: See when he gets a classified clearance, have you, it would be hard getting a clearance, do you have any contact with any foreign country, any foreign national, have you received any payments, that's all part of the classification process. He won't get the classification if he says yes he has, the moment he lies, he's perjurged himself.

MR. CASEY: I guess we all have [????] (tape 2, #32) of [???] tape 2, #32. I'm an officer in the United States Army Reserve, I just wanted to -- we're all faithful Americans.

MR. DUHADWAY: I have no doubt ~~[????????????]~~. I don't even doubt that [~~??????] tape 2, #33~~) She has a legitimate complaint in her eyes and that's great that we can do that in this society. The fact that we can sit here and discuss it is fantastic. Two differences. There is a big difference between the United States and the Soviet Union as the story goes. We both believe in freedom of speech, the difference is we have freedom after speech in the United States. That's the big difference.

MS. FORBES: I think we should all read a book by J. Edgar Hoover called "Masters of Deceit", and from the time that book came out I think the pr of the, the image of the FBI went down in the national press. To me that opens your eyes to so much and I think that every high school student in the country should read that book. I think it's out of print.

MR. DUHADWAY: I do appreciate your guidance. I don't know how to solve the problem without doing more damage and your suggestion we've thought about and talked about as to if you want to pursue something and our problem is we're not going to walk away from it. We're mandated by law to continue our investigations and we're not going to back away, I guarantee you, at

Columbia University, sometime in another set of circumstances and we might have a legitimate need to be in that library, so that's why we're trying to resolve that problem, and we may have to do it by going to the director and he may say, "Get the hell out of here.", or he might not. But I don't know if that person is going to convince that person who wrote these letters of the propriety of doing it anyway, because she said in her letter to us that "if you gave me a subpoena ~~-under~~ or court directive, I wouldn't cooperate", so it just shows the degree of emotion and talking to people like that, if, I have a temper when I get mad too, and if I might say things like that too, but don't talk to me when I'm mad because I'm not going to make a whole lot of sense. And that's, you know I don't want to impugn what she said. I truly don't believe she meant that, but that's, if you want to believe the New York Times folks that's what was there. And I know she doesn't mean that, we all know that, but how do you change somebody's opinion that feels that strongly when there's a difference as to what the problem is -- identification of the problem. She thinks we want to do one thing, we think we want to do another and she's speaking to this issue and we're speaking to this issue and there in lies the problem.

MR. CASEY: Are there any other countries besides Russian nationals that you're looking for?

MR. DUHADWAY: Sure. [redacted]

MS. HASHIM: I just want to say that I do, you know, sympathize with your problems and I just wanted you to be aware of the feelings that are out there if you weren't. But also in defense of librarians if you will ....

MR. DUHADWAY: I'm not knocking librarians, please.

MS. HASHIM: No, but I'd like to give you an example of what I think would happen in other situations as well. As I said I'm a librarian. When I was a library director of a public library in Connecticut. It happened to be before confidentiality of library records law was passed, but I think I would have done it even if the law had been there. When I was director of this library a young woman who had been in the library, a young school teacher had come into the children's department in the evening to check out some books and was well know to the library staff. She walked out of the library and around the corner and was assaulted by someone and raped. She came into the library looking for help. It was in the evening and I was at home so I was called down there and the police were down there, and the police wanted me to give them access to our records of who had returned books that evening and who had checked books out that evening. And I knew because of the confidentiality things, under normal circumstances I wouldn't want to give out that information to anyone and I was very hesitant and finally the detective investigating the case said, "We have no leads and we need your help." So I gave him, I had, I gave, I did myself go through the books that were returned that evening, wrote down the card numbers so that I could give him the names, gave him also the information of who had checked out the materials and the case got alot of publicity. The case got alot of publicity, and I guess the point I'm trying to make is that I had alot of sympathy from my colleagues in the library profession. Normally I wouldn't tell anybody anything in terms of you know who took out what book or whatever and I didn't give them that information. All I did was give them a list of names and said they were here. Not that they returned books, not that they checked out books, but they were in the library that not that we know of. And I had alot of support and sympathy from my colleagues and I guess why I tell you this is because I think that you may have more support than seems obvious.

MR. CARTER: Did you get criticized?

MS. HASHIM: Oh yes. But it is an emotional ....

MR. DUHADWAY: But in that case if we were doing that and you had not been a professional-minded, public spirited citizen and made that choice, the police would have been well within their right to come back to you with a subpoena, very limited and under the power of the court, so you wouldn't be individually violating anybody's privacy or what have you and request that information because here you have a crime that is public and you're going to prosecute it and you really don't care. Our problem is we don't want everyone in the world to know. And as Miss Kauffman says here [??????????????????] tape 2, #40 harbor any problems here, I wouldn't cooperate even if I had a subpoena or go get a subpoena. We don't always know the law has been broken in a counterintelligence field, and we want to keep our knowledge of Ivan Ivanovicz secret from Ivan Ivanovicz, so we can't, we're not in a position to get subpoenas or administrative supoenas or court orders or what have you. That all becomes public. We don't want to do that unless we absolutely have to.

MR. CASEY: I would like to make a helpful suggestion to you. In terms of new sites for your investigations, maybe it would be more discreet if you simply first went to let's say, the President of the Board of Trustees of the library and explain the situation or the Dean or Chancellor of the university or the Director of the Library, somebody at the top so you could explain the whole situation rather than to first speak to a clerk who immediately flares up and calls the Intellectual Freedom Committee and writes the New York Times. In looking over this material, it seems as though it's been the lower echelon people who first got it inflamed and then it's gone up and all of a sudden everyone's excited, whereas if you had gone to the President of the Board of Trustees in the public library or the Chancellor at the university or something and explained the whole thing and then the Chancellor [??????]tape 2, #41.5 to the academic librarian and explains the situation and then when you had to talk to the clerk or something the clerk wouldn't get so fired. The clerk storms into the Director of the library's office and says "Hey, look what they're doing." The Director says, "Wait, no it's okay."

MR. DUHADWAY: I won't say it hasn't been done, but [?????]-tape 2, #42. Point well taken.

MR. NEWMAN: Are there any other questions. Mr. DuHadway?

MS. FORBES: Just a comment. I would hate to think that NCLIS ever kind of pandered to the IFC because if you remember, everybody seems to be in such awe of that committee, but they had a hand, if you remember, in that infamous censorship, so-called censorship report we had on school libraries. So I really question, sometimes, their motives.

MR. DUHADWAY: I just want to say thank for the opportunity to be here, appreciate your suggestions and for listening to our side of the story.

MR. NEWMAN: Now, before we adjourn the meeting and the hour is late, and we may decide to discuss where we want to go with this in the open meeting, tomorrow if there's time. I don't propose that we should sit here another hour and debate this. But this was a closed meeting and I've asked staff to sit in because it is a sensitive issue and I got Mr. DuHadway's concurrence that they should sit in and I am talking to all of you as colleagues that whatever went down in this meeting, until this Commission decides to take a position or it doesn't take a position, it may do nothing, it may do something, I don't think these proceedings should be discussed because in the hands of whoever's hands it gets into it will be turned just as my comments were turned when I addressed the Nassau County Library System and I have strong feelings favorable to everyone in this room, that's why you're all here to hear this presentation. And I have confidence in each and every one of you and if you are asked what went on in this meeting all you're to say is the FBI presented it's side of the story and we're analyzing it. Now I know you will be under pressure, there are members of the ALA Intellecutal Freedoms Committee and the ALA themselves are going to say they saw it on the agenda and they are going to say, "What went on?" We have to be big boys and big girls and we have to say, "We had a closed meeting. The FBI presented their side of the story, we're analyzing it, we're considering it and other than that I have no comment." And that goes for Jerry Newman, Mary Alice, Vivian, David, Jane, Chris, George, Sally Jo, Dan, Elinor, Peg, Julia, Wanda, Dan, Bessie.

MS. HASHIM: You left out Jane.

MR. NEWMAN: No, I said Jane and Dan twice.

MR. CASEY: Another note that wasn't brought up, but it may have a bearing, but Mr. Galvin has announced that the ALA is conducting a freedom of information act legal action to find out what is behind the FBI's work. I don't know if he's trying to get something [?????[tape 2, #46 FBI, he didn't make it clear as to what the action's against. However, if, well depending on what we do tomorrow in public, if we don't do anything or something I don't know whether the ALA will try to open our records to a freedom of information act. See that's the next step....

MR. NEWMAN: I have no problem with that, but I think that look, the integrity of our Commission should be protected. I don't like becoming gossip, I think it doesn't help the Commission in it's activities. If we are a government agency, which we are, and under the laws that were promulgated and the regulations that were promulgated, we allowed to consider such matters, then we should consider them, and you know, one of the problems of many congressional committees is the leaks and that kills off their ability to work effectively.

MR. CASEY: Have you gotten a freedom of information act request from ALA in regard to this whole library situation?

MR. DUHADWAY: No. We don't have any problem with that. We'll send along on paper what we just talked about, but it isn't going to change anything. If you think it will Mr. Casey, I would appreciate your guidance and how to go about ...

DR. MOORE: You mean if they want to know what you said, you'll send a summary, huh?

MR. DUHADWAY: We'll tell them. We've already told them.

MR. NEWMAN: But they turned, but somehow it doesn't get presented that way.

MR. DUHADWAY: Please remember that Congress is not subject to the freedom of information act which has always been interesting.

MR. NEWMAN: A point that we should not lose is that the FBI has presented this program to the Congress, to the appropriate committees in closed sessions. In other words we have a fireball going around here out of control that has been considered by the proper committees in Congress, they are aware and it's in the national interest of this country. And it only pertains to a very small part, if you will, of the library, it is not every library in the country. It's only certain, specialized libraries, it happens to be in New York. I think if I put words in his mouth he would like to say he had the resources to put it in this kind of a program where there are technical libraries...

MR. DUHADWAY: It's not necessary. Where we know the activities, but it's not necessary. Columbus, Ohio, there aren't Soviets.

MS. HASHIM: Who wants to go to Columbus?

Mr. Newman adjourned the meeting at 6:20 p.m.

U.S. Department of Justice
Federal Bureau of Investigation

The KGB and the Library Target 1962 - Present

February 1988

UNCLASSIFIED

THE KGB
AND THE
LIBRARY TARGET
1962 - PRESENT

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Methodology

This study examines the extent of Soviet intelligence services (SIS) utilization of America's specialized scientific and technical libraries to further the objectives of the SIS collection effort. Ancillary to the use of this category of libraries is the targeting of the Library of Congress, technical information clearinghouses, and selected public libraries. In all instances, the SIS is in search of sensitive but unclassified information which provides the Soviet Union with the necessary tools to keep pace with America's scientific and technical achievements.

FBI investigative files of SIS officers were reviewed to accumulate the necessary data utilized in this study. All of these officers have served in the United States for a tour of duty or multiple tours of duty during the period from 1962 to the present time. These officers have served in New York, New York; San Francisco, California; and Washington, D.C., fulfilling SIS functions at the Soviet Mission to the United Nations (SMUN); the commercial establishments; the Soviet Consulate and the Soviet Embassy. The relationship between SIS officers assigned to these establishments and those employed in the Dag Hammarskjold Library (DHL), United Nations Secretariat (UNSEC) is examined, as is the role of the DHL in the SIS effort.

A comparison is offered between specific items of information acquired by the SIS through the specialized scientific and technical libraries and the Soviet State Committee for Science and Technology (GKNT) "shopping list" which outlines hundreds of categories of information of interest to the Soviets.

It is readily apparent from the facts gathered during the review of SIS files that utilization of libraries and efforts to recruit librarians and students at the libraries has been an important element of the SIS collection effort since 1962.

Executive Summary

For nearly three decades, the SIS has found it beneficial to concentrate some of its resources on the targeting of America's specialized scientific and technical libraries. During the same time frame, the SIS has conducted significant penetrations of the DHL of the UNSEC and, in fact, the Soviets have reaped significant rewards from having one of their representatives occupy the post of Director of the DHL since 1964. The Library of Congress; scientific and technical sections of public libraries; specialized departments of university libraries; and large information clearinghouses have also been prominent targets of the SIS intelligence collection effort.

The objectives of this massive effort have been:

(1) to adequately respond to the tasking of the GKNT by collecting scientific and technical documents on a variety of topics; by researching the most recent developments in America's military programs and by identifying the nation's emerging technology before its components become classified or restricted.

(2) the spotting, assessing and developing of selected librarians to work (wittingly or unwittingly) on behalf of the SIS in meeting its intelligence collection requirements.

(3) the spotting, assessing and developing of college and university students and professors to assist the SIS officer in the collection of needed information.

(4) the identification of scientists, engineers and corporations who are involved in the planning, creating, developing and producing of America's advanced technology.

(5) the utilization of the libraries as a fertile area for the training and developing of newly recruited agents.

The SIS leadership in Moscow and at the Soviet Mission to the United Nations (SMUN), Soviet Consulate in San Francisco and the Soviet Embassy in Washington, D.C., has long recognized the importance of the specialized scientific and technology libraries as a means to gain access to the nation's extensive database resources.

While the information available to the SIS in the specialized and technical libraries is not classified, restricted or unlawful to collect and maintain, SIS tactics and methodology employed to collect such information have illustrated a blatant disregard for American laws and the personal rights of American citizens. To avoid the cumbersome and time-consuming process of collecting, reproducing and returning some information to the libraries, SIS officers have stolen, or caused to be stolen by their agents, hundreds of thousands of items of microfiche from specialized scientific and technical libraries. This practice has been condoned and encouraged by KGB Headquarters in Moscow.

SIS officers have initiated background investigations on individuals identified through research and spotting conducted in the libraries - background investigations on librarians, university professors, students, scientists and engineers. Indexed in the files of the KGB, these individuals have become fair game for physical surveillances by KGB officers who attempt to learn their address, assess their vulnerabilities and develop a recruitment scenario. This practice has been condoned and encouraged by KGB headquarters in Moscow.

Upon completion of background investigations, suitable scenarios are developed to approach students, librarians, scientists and engineers to secure their cooperation. Payments or other inducements may be offered by the SIS in an effort to recruit an agent. This practice, too, is condoned and encouraged by KGB headquarters in Moscow.

After an individual is recruited by the SIS he or she may be instructed to seek employment at a company, corporation or entity which deals with classified Government contracts. Once such a transition is complete, the relationship which began between the SIS officer and his recruited agent and involved unclassified information may readily evolve into a relationship where classified information is obtained and passed by the agent. Regardless, the Soviet Government need to acquire militarily significant Western technology and an enormous variety of scientific and technical documents mandates that the SIS collect scientific and technical information, both overtly and covertly.

The publication, Soviet Military Power, 1987, produced by the United States Department of Defense (DOD), states:

> A major responsibility of the Military Industrial Commission (VPK) is to act as the prime coordinator for technology acquisition to support the defense industrial ministries. It seeks unique military or civilian hardware, documentation, or techniques to improve the technical levels and capability of Soviet weapons, military equipment, and associated industrial machinery. The Ministry of Foreign Trade and the intelligence services administer a trade diversion program to obtain significant numbers of manufacturing and supporting equipment for direct use on Soviet military-industrial production lines. The purpose of this program is to improve Soviet capabilities to produce reliable modern weapons.
>
> Hardware, designs, and production techniques are not the only targets of the Soviet acquisition program. A goal in Soviet-Western scientific exchanges, for example, is to gain access to Western technological know-how. Soviet participation in scientific exchanges enables the Soviets to acquire and exploit Free World technologies.
>
> Even this process of scientific exchanges is highly centralized and serves the military sector. Among the agencies charged with fulfilling collection requirements established by the Military Industrial Commission are not only the KGB and SIS, but also the USSR Academy of Sciences and the State Committee for Science and Technology, both of which are the official - "above

board" - partners in scientific exchanges with the West. Soviet scientists are, with few exceptions, selected and assigned to participate in exchanges according to covert collection priorities."

Theft, intrusions into the personal privacy of American citizens, payments for services - these are the elements that characterize the legacy of the SIS program to use and abuse America's specialized scientific and technical libraries.

SIS involvement with specialized scientific and technical libraries provides significant access to people as well as information. Trained in the techniques of clandestine operations and covert intelligence collection, SIS officers work to transform their overt contacts who can provide unclassified but important documents into contacts with access to classified information.

The identification of intelligence officers early in their visits to the United States as well as identification of their interests and objectives is very important to the U.S. Government. SIS contacts with librarians and other individuals whom an SIS officer may meet through the library - students, professors or scientists, have the potential of offering the FBI access to a particular subject early in his career in America. Such access is inherently neutralizing to an SIS officer's intelligence collection effort and, at the same time, provides the FBI with personality assessment data impacting upon the subject's recruitment or defection potential.

The librarian may have reason to contact the FBI regarding an individual if:

1) he identifies himself as a Soviet National assigned to a specific Soviet establishment such as the UNSEC and wishes to have assistance in conducting research in the library.

2) he identifies himself as a Soviet National assigned to a specific Soviet establishment and requests a librarian to refer him to a student or professor who might assist him in a research project.

3) he advises a librarian that he is conducting research for an unnamed Soviet friend and needs access to specific documents.

4) he is observed departing the library after having placed microfiche or various documents in a briefcase without properly checking them out of the library.

5) he asks a librarian, during a friendly conversation, for certain biographical or personality assessment information on a specific individual known to the librarian, such as a student or academician.

Just as the FBI seeks to heighten the awareness of corporate executives and their employees to be alert to the hostile intelligence services threat (HOIS), the FBI seeks to alert librarians that they and their libraries are, and have historically been, significant SIS targets.

By alerting potential targets to the SIS threat, the FBI seeks to diminish the severity of the threat while neutralizing the ability of SIS officers to selectively prey upon unsuspecting librarians, students, professors and scientists.

Introduction

An entry in the Congressional Record, June 18, 1987, from The KGB: The Eyes of Russia by Harry Rositzke provides a succinct summary of the operational methodology of the Scientific and Technical Branch of the KGB.

> The largest section of the New York residency is its Scientific and Technical Branch. It is the key collector of both open and secret information on American technology, a top KGB priority for the past thirty years. It is a fair though rough estimate that from 80 to 90 percent of the KGB's budget and manpower spent on American targets has been devoted to scientific and technical intelligence, both industrial and military.
>
> The job of the S and T branch of the New York residency is to fill this maw of requirements from any available sources.
>
> Much of the take comes from completely open sources. Trade and technical magazines are shipped to Moscow by the thousands. Technical developments reported in the press are clipped.
>
> Soviet officials attending industrial fairs and exhibitions come back with shopping bags full of sales brochures, photographs of exhibits, technical layouts. When instructed, they buy pieces of equipment that Moscow wants.
>
> S and T experts visit the many factories, laboratories and research institutes that are open to them. They develop and maintain personal relationships with professors at Columbia and the Massachusetts Institute of Technology. They attend, and give, lectures to specialized academic audiences.
>
> All of this activity is quite public and proper. No one needs KGB training to be affable, curious, and knowledgeable in this field. All the while, however, the trained S and T officer is mixing with the right people, making friends, sizing up the men he meets.

Here are some scenarios:

-A young corporation executive likes his Soviet friend and is happy to invite him to dinner, introduce him to his circle of acquaintance, and do him a favor now and then by opening doors otherwise closed to him. One man leads to another.

-A laboratory assistant is pleased to be invited to dinner by a visiting Russian, talks freely of his work and his boss, and agrees to meet him next time he is in the neighborhood. The blueprints are within reach.

-A professor of biochemistry meets a knowledgeable Soviet "fellow scientist," invites him for a weekend, discusses the literature in his field, professes interest in a visit to the Soviet Union.

-The salesman for an instruments firm with a booth at a scientific conference chats with a Russian who gives him his card. Six months later he received a call from the Russian, who invites him to lunch.

-Multiplied a thousand times, these carefully reported contacts place the Center in a position to select the right man in the right spot for what it wants and to instruct the residency to "study" him.

The entry in the Congressional Record is an excellent foundation upon which to begin an examination of SIS operations directed at America's library community. Some representative examples:

A primary function of one Soviet national working in the United States was to select librarians in key U.S. companies for covert development and recruitment by the SIS.

An SIS officer covertly attempted to obtain information on research services provided by libraries in several Eastern states and the information retrieval systems at those libraries.

An SIS officer attempted, through clandestine means, to obtain sensitive reports from the Defense Documentation Center, Cameron Station, Alexandria, Virginia.

-The wife of a U.S. military officer, employed at a specialized library was to be assessed for a possible approach.

-The director of an influential scientific library was of interest to the SIS.

The SIS was interested in initiating relationships with librarians and engineers of certain ethnic backgrounds.

SIS officers operate within the overall framework of the following areas:

-Acquisition and exploitation of human assets

-Work against targets

-Exploitation of Universities

-Information production (all sources)

-Technical operations

Four of the five categories are pertinent to the effort directed at the specialized scientific and technical libraries.

The SIS has targeted librarians with the objective of developing and recruiting sources who would subsequently be directed to seek employment with the Defense Technical Information Center (DTIC).

To accomplish this objective, SIS officers have attempted to develop and establish relationships with librarians affiliated with various universities, associations and U.S. Government agencies. SIS officers have been known to conduct extensive surveys to select suitable library targets for exploitation.

DTIC is the central repository for technical reports generated by the research, development, test and evaluation activities of the DOD. It includes all work performed by DOD grant. Virtually all documents are classified or restricted in some way.

Unclassified and nonrestricted DOD technical reports are made available to the general public through the National Technical Information Service (NTIS), Springfield, Virginia. The Soviets were embargoed from directly accessing materials through NTIS on January 8, 1980 when former President Jimmy Carter sent a letter to the U.S. Secretary of Commerce captioned "Policy on Technology Transfer to the USSR." One of the specific purposes of this executive order was to prevent "the USSR, its entities or agents," from accessing information through NTIS.

America's Specialized Scientific and Technical Libraries - Prime Targets of the SIS.

FBI investigations since 1962 have thoroughly documented SIS interest in America's specialized scientific and technical libraries. SIS efforts directed against this category of libraries have been pervasive, suggesting that targeting of the specialized scientific and technical libraries is an integral component of the overall SIS strategy for the collection of scientific and technical information. Consider the following examples:

The FBI has gathered information indicating that SIS officers have removed thousands of documents from specialized scientific and technical libraries. SIS officers have received training in the removal of documents from these libraries.

Included as an element of Soviet Exchange Student tasking has been the identification of scientific-technical libraries; systems of their work; possibilities for subscribing to literature and reports from the libraries or other institutions of learning; qualifications and specialties of students being trained and where they are placed after graduation from a university or college and with which Government institutions regular business connections were being maintained.

The SIS has utilized clandestine means to obtain large volumes of documents from the Special Libraries Association (SLA).

Officials in Moscow have instructed SIS officers to obtain from the Library of Congress various types of information through the use of SIS sources.

The SIS has been known to target specific librarians to be considered as possible contacts for agent development. Background investigations on these librarians, and if necessary, physical surveillances of them, have been encouraged. The SIS has obtained the "Biographical Directory of American and Canadian Librarians," and can utilize this document to identify specific librarians for targeting.

Soviet students attending American universities have been tasked to obtain, covertly and overtly, any documents or material accessible to them either through an individual at that university or as a result of access to the university's library.

As gleaned from the above examples, the SIS is interested in the nation's scientific and technical libraries because:

(1) their databanks and reference works, when accessed or removed, provide an important link in the SIS intelligence collection effort;

(2) the SIS leadership structure, in Moscow and at various American based Soviet establishments, has historically decided that access to the libraries and librarians should be an integral component of the overall SIS effort;

(3) the development of librarians as sources of information or agents is a worthy compliment to the SIS mission;

(4) the targeting of libraries and librarians by Soviet exchange students involved in East-West exchange programs enhances Soviet intelligence collection objectives while providing SIS officers and co-opted agents ample training opportunities in a foreign environment;

(5) access to term papers and theses written by university students assists in the SIS collection effort and also helps to identify students who might be potential recruitment targets.

(6) research conducted at the scientific and technical libraries is a natural follow-up to information developed by SIS officers at public libraries, the Library of Congress, and the DHL.

The scope and intensity of the SIS attack on the nation's specialized scientific and technical libraries over three decades is illustrated through the following:

Access to Databanks and Reference Works

The SIS has reproduced microfiche and film strips from the document deposities at various libraries.

The SIS has queried their sources to determine if they have access to library databases.

SIS officers have requested their sources to obtain information on research services provided by libraries and to learn about the information retrieval systems at those libraries.

The large scale theft of microfiche records from libraries characterizes the degree to which the SIS will go to obtain access to databanks and reference works.

The SIS Leadership and the Role of Scientific and Technical Libraries

FBI investigations targeting the SIS leadership have determined that certain techniques have been utilized by the SIS with regard to the libraries. These techniques have included:

(1) locating, assessing and developing librarians or those employed within business or university information centers;

(2) the development of librarians in public libraries, and thereafter encouraging them to seek employment at more attractive targets;

(3) grouping librarians by ethnic background; and

(4) the development of university students and subsequently tasking and paying them to acquire information from university libraries.

The Development of Librarians

The FBI has documented a number of instances where librarians at specific institutions have been targeted for agent development. The SIS has also targeted specific librarians at various libraries.

Soviet Exchange Students and the Scientific and Technical Libraries

The FBI has learned that a large percentage of the scientists and scholars affiliated with the Union of Soviet Socialist Republics Academy of Sciences (USSRAS) who travel to the United States to conduct research and to attend conferences are co-optees of the SIS. Their objectives, while in the United States, include:

1. identification of contacts.

2. development of sources.

3. determining the nature of research being conducted for military application, and the individuals and companies involved in the research.

4. obtaining restricted literature.

5. obtaining embargoed literature.

Soviet foreign exchange students have been involved in meeting with SIS officers working in various Soviet establishments in the U.S.

Soviet exchange students attending American colleges and universities provide the SIS with the potential to reach into a particular institution's specialized libraries. The SIS has long utilized Soviet Exchange Scholars in its intelligence collection effort, as well as placed KGB officers into cover positions as students.

During the 1985-1986 academic year, Soviet exchange scholars attended 27 schools, including North Texas State, Denton, Texas; University of Houston, Houston, Texas; University of Texas, Arlington, Texas; John Hopkins University, Baltimore, Maryland;

Texas A&M University, College Station, Texas; University of Maryland, College Park, Maryland and the University of California, Berkeley, California.

During the 1986-1987 academic year, Soviet exchange scholars attended 32 schools, including campuses of the University of California, University of Maryland, University of Texas, University of Pennsylvania, and University of Virginia.

During the 1987-1988 academic year, Soviet exchange scholars attended 26 schools, including schools in California, Texas, Ohio, Maryland and Florida.

In addition to Soviet exchange scholars, thousands of Soviet visitors (academicians, scientists, engineers, etc.) have visited American cities and colleges since 1982.

SIS Access to University Students, Theses and Term Papers At University Libraries

An article which appeared in the April, 1987, issue of "New York Magazine" is representative of the SIS interest in students, universities and libraries, and illustrates direction and tasking of a source by Gennadiy Fedorovich Zakharov, assigned to the United Nations Center for Science and Technology for

Development prior to his arrest by the FBI for espionage on August 23, 1986.

"...In computer science 101, Leakh made the acquaintance of a Hispanic student named Artie. The two exchanged telephone numbers, and Artie one day called to say that he was quitting a job doing research for a professor. Artie reported that he had been earning $10 an hour and asked if Leakh wanted the position. At 3:30 p.m. on April 18, 1983, Leakh met Artie in front of a building at Queens college. Artie suggested that Leakh impress the professor by saying he planned to study something like artificial intelligence. Artie further advised Leakh to try for $15 an hour.

I said fine.

Fifteen minutes later, a neatly groomed gentleman appeared out of the drizzling afternoon. He looked professorial in a blue suit, blue tie, and light-gray shirt. He gave Leakh's hand a firm shake and introduced himself as Genrick. Leakh immediately recognized the accent as the same as that of a girl he knew.

As soon as he spoke, I knew he was Russian.

Artie headed off, and Leakh went for a stroll with the gentleman. Leakh said that he was studying artificial intelligence and robotics. The gentleman produced a list of various public institutions and libraries. He asked if Leakh would be willing to do research at these places for a school called "Moscow Institute."

I said, Library and what not is fine. He asked if I can get classified material. I said I won't be able to do that. He kind of smiled.

On a chilly afternoon in early May, Leakh went from an art class to meet the gentleman outside the Student Union. The gentleman seemed impervious to the cold as he gave Leakh a list of magazine articles to look up in the Queens College Library. The gentleman asked Leakh to present him with photocopies on the following Tuesday afternoon.

Finally, Leakh decided to follow Mike's advice. He and Mike went in the early evening to a pay phone in the lobby of the Queens College Library and called the FBI office in Queens.

That week, Leakh delivered the catalogues to Zakharov in a bar on Hillside Avenue. They drank Heinekens, and Zakharov asked Leakh to photocopy magazine articles from the microfiche files at the Queens College Library. Zakharov advised Leakh to take certain precautions. He told me to put wrong name and the wrong social security number on the call slip.

At the Queens College Library, Leakh filled out a stack of call slips with an altered Social Security number and a last name jumbled from "Bhoge" to "Boghe." He took the microfiche to a pay photocopy machine.

Zakharov slid Leakh's photocopies into the blue shoulder bag and agreed to pay $10 an article. Zakharov added that he was going on vacation to the Soviet Union, and he wanted Leakh to get materials from libraries at New York University and Columbia University. Zakharov further asked Leakh to obtain some microfiche from a mail-order company.

At the Fame Diner, Zakharov and Leakh both ordered chicken. Leakh handed over some photocopies he had made at the Columbia University library. Zakharov gave him $200 and stressed the importance of keeping their dealings secret.

On through the rest of 1983, Leakh photocopied dozens of technical articles for Zakharov at the Queens College Library. The FBI made copies of the copies and Leakh then passed them on to Zakharov. The Russian apparently dusted for fingerprints, and Zakharov questioned Leakh about who had handled the papers. Leakh said that a guard had gone through them when he left the library.

They strolled to a restaurant, and Leakh handed over his latest photocopying. Zakharov suggested that Leakh should start stealing the microfiche from the library.

A short time later, Leakh went into the Queens College Library and waited until nobody was around. He quickly slipped several microfiche into one of two identical notebooks Zakharov had given him. Zakharov had prepared him with an excuse in the event he was caught on the way out.

"I would tell the guard, 'I picked up the wrong notebook by mistake, it's not mine, it's similar to the other one which is mine."

Nobody challenged Leakh at the door, and he passed the microfiche to Zakharov that night. Zakharov gave them back to Leakh the following morning at the Grant Avenue subway station, in Brooklyn. Leakh immediately headed for the library.

In the months that followed, Leakh seemed to be forever on a bus or a subway as he went from place to place with stolen microfiche.

Leakh continued to meet Zakharov, Leakh's assignments broadened to include attending a scientific conference at the Hilton hotel, drawing a map of the engineering library at Princeton University, and writing reports on three robotics books.

I did it in the library. While my friends were studying, I was writing notes for Russians.

That May, Zakharov dispatched Leakh on a mission to steal some twenty microfiche from the University of Connecticut library. He was to drive up in a borrowed 1975 Buick and later stop on Central Avenue in Yonkers. There, he was to signal the completion of the operation by making a small cross with a Magic Marker one foot from the base of a particular lamppost.

SIS Involvement With Public Libraries, the Library of Congress and the DHL, UNSEC

Access to specialized scientific and technical libraries clearly enables the SIS to fulfill the intelligence collection requirements mandated by the GKNT. However, the SIS is also able to utilize the Library of Congress, DHL, UNSEC, and scientific and technical sections of various public libraries in an effort to comply with the GKNT requirements.

America's libraries provide students, academicians, authors, scientists, engineers, and citizens of all walks of life with the necessary tools to pursue a multitude of learning experiences. An individual who is experienced and knowledgeable in conducting research in a library can pursue thousands of topics and areas of interest, accurately tracing the financial status and organizational structure of American corporations, the sale of the corporations' product, involvement in sensitive government contracts, and assessing the research and development pursuits of these corporations.

Recognizing the potential offered by such opportunities for research, SIS officers also take advantage of these libraries to assist in their overall intelligence collection effort.

SIS Interest In Technical Clearinghouses To Compliment The Libraries

The SIS has enhanced its collection of scientific and technical information through numerous other research facilities which offer the services of vast databases as well as sensitive reports on specialized scientific and technical topics.

Soviet intelligence officers have attempted to obtain reports from defense documentation companies, the libraries of specialized associations, and companies which sell technical documents and publications.

Dag Hammarskjold Library - United Nations Secretariat

An important link in the SIS targeting of America's specialized scientific and technical libraries has been the simultaneous penetration of the DHL, UNSEC. Since 1964, Soviet nationals have occupied the position of Director of the DHL, with additional Soviet nationals occupying subordinate positions within the DHL. Control of the DHL cloaks and therefore legitimizes the SIS presence in an influential position; strengthens the SIS foundation to gain access to the nation's databases which enhances the KGB intelligence collection process; and allows the SIS to send officers and co-optees to library conferences world wide, at the expense of the United Nations. At these conferences, the SIS representatives can spot and assess potential sources, thereafter advising the appropriate KGB residency of the identity of these individuals so that additional assessment and development can occur.

The DHL provides computerized searches of the UNBIS data bases for UN staff, members of missions, representatives of nongovernmental organizations (NGOs) and other accredited researchers.

Complementing the UNBIS is NEXIS, an on-line library. Accessible through it are the full texts of articles from 11 major newspapers, 30 magazines, nearly 40 newsletters, 10 newswires and related special-interest services, the Federal Register, and the Encyclopedia Britannica.

Library Access and Intelligence Tasking

A September, 1985, study entitled Soviet Acquisition of Militarily Significant Western Technology: An Update, explains why the Soviets are interested in America's specialized scientific and technical libraries. The study states:

> Western products and technology secrets are being systematically acquired by intricately organized, highly effective collection programs specifically targeted to improve Soviet military weapon systems. The Soviet intelligence services - the KGB, the SIS, and their surrogates among the East European services - and Soviet trade and scientific organizations are actively involved in obtaining this technology. Targets include defense contractors, manufacturers, foreign trading firms, academic institutions, and electronics data bases.

Selected sources of information sought are U.S. defense contractors, commercial data bases and scientific conferences. The study estimated that "about 90 percent of the roughly 100,000 documents acquired each year worldwide are unclassified." Commercial data bases have significantly enhanced Soviet intelligence collection efforts:

> Unclassified technical documents from all countries-including engineering analyses and research results-are targeted by Soviet intelligence and other collectors because of their value to Soviet engineers seeking creative designs and alternative engineering approaches. For example, from the mid-1970s to the early 1980s, NASA documents and NASA-funded contractor studies provided the Soviets with their most important source of unclassified material in the aerospace area. Soviet interests in NASA activities focused on virtually all aspects of the space shuttle. Documents acquired dealt with airframe designs (including computer programs on design analysis), materials, flight computer systems, and propulsion systems. This information allowed Soviet military industries to save years of scientific research and testing time as well as millions of rubles as they develop their own very similar space shuttle vehicle.
>
> The individual abstracts or references in government and commercial data bases are unclassified, but some of the information, taken in the sensitive information concerning U.S. strategic capabilities and vulnerabilities. Numerous unclassified U.S. Department of Defense and contractor documents are sought by the Soviets from the Commerce Department's National Technical Information Service. Documents dealing with design, evaluation, and testing of U.S. Weapon systems-the Sidewinder air-to-air missile, the F-15, the Redeye shoulder-fired antiaircraft missile, the B-52, and others-are in the data base.
>
> The public and private document clearinghouses-established to efficiently index and disseminate the results of government and government-sponsored military-related technical research-are a fertile ground for KGB, SIS, and other collectors. In recent years, the growing use of electronic data bases has provided the Soviets with an even more efficient means of identifying and procuring such unclassified technical information needed by Soviet designers.

A visit to a specialized scientific and technical library, to the scientific section of a large municipal library or to virtually any American public library would reveal information in the areas of aviation, projectiles and explosives, armor and electro-optics, missiles and space, communications, radars and computers, nuclear and high-energy lasers, sky building, electronics and microelectronics, chemicals, electrical equipment, and petroleum and petrochemicals.

As numerous examples in the proceeding pages show, information in the above areas has been collected for three decades from America's scientific and technical libraries, the Library of Congress, information clearinghouses and through adroit KGB utilization and domination of the UNSEC DHL.

Conclusions

The strength of a free society is derived from the easy exchange of information and ideas; ideas nurtured by the creativity and imagination of America's scientific, engineering and technical community. It is the very lacking of information and idea exchanges in a closed society that stifles creativity, suppresses the imagination and acts as a barrier to social, economic and technical progress. The Soviet intelligence services' information collection effort seeks to acquire significant material from America's vast information data bases of sensitive but unclassified scientific documents and technical reports. By necessity a focal point of such an effort is this country's scientific and technical libraries and technical information clearinghouses.

The FBI must logically pursue any contact between a Soviet national and an American citizen, regardless of where the contact occurs or the profession of the person contacted, and that would include libraries as the circumstances might require. Since the FBI has no way of ascertaining the purpose of a Soviet contact or particular Soviet interest without interviewing those contacted, FBI interviews are an absolute necessity in fulfilling our counterintelligence responsibilities. These responsibilities have been clearly defined and articulated and are an inherent aspect of our overall counterintelligence effort. These responsibilities are:

Identification of intelligence officers.

Identification of their agents.

Identification of SIS objectives.

Obtaining assessment as to the IO's tradecraft and methodology.

Assessment of the subject's vulnerability to defection.

Given the scope and dimensions of the SIS effort, the FBI's response has been reasonable and balanced. The FBI has attempted to accomplish its objectives while safeguarding America's scientific and technical advances, recognizing that those advances flourish only in a free and open environment. The success of such an FBI effort in this area can only come through the cooperation of those American citizens who are significant SIS targets-students, scientists, academicians, and librarians.

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

Mr. Quinlan J. Shea, Jr.
Special Counsel
The National Security Archive
Suite 500
1755 Massachusetts Avenue, N.W.
Washington, D. C. 20036

FOIA No. 286,890

Dear Mr. Shea:

Reference is made to your pending Freedom of Information Act request for records pertaining to an FBI foreign counterintelligence program which has come to be known as the "Library Awareness Program." Based on your telephone discussions with Assistant Section Chief Marvin E. Lewis, you limited the scope of your request to include only those documents containing background and/or policy materials relating to this program.

We have extracted the requested material from the pertinent FBI Headquarters main file and the corresponding New York Field Office file. Copies of the releasable portions are enclosed. Deletions have been made pursuant to Title 5, United States Code, Section 552 (b)(1), (b)(2), (b)(7)(C), (b)(7)(D) and (b)(7)(E). (An explanation of these exemptions is attached.) The review of these documents was carefully conducted taking into full consideration the recent public disclosures made by the FBI about this program; however, much of the information therein continues to warrant classification or is otherwise exempt from release.

I am also enclosing a copy of "The KGB and the Library Target 1962 - Present" which may be of interest to you.

Bicentennial of the United States Constitution (1787-1987)

Mr. Quinlan J. Shea, Jr.

You may submit an appeal from any denial contained herein by writing to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), United States Department of Justice, Washington, D. C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

Emil P. Moschella KCR

Emil P. Moschella, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

Enclosures (3)

4-694a (Rev. 12-4-86)

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

(b) (1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(b) (2) related solely to the internal personnel rules and practices of an agency;

(b) (3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(b) (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(b) (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(b) (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b) (7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(b) (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(b) (9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

(d) (5) information compiled in reasonable anticipation of a civil action proceeding;

(j) (2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals, except records of arrest;

(k) (1) information which is currently and properly classified pursuant to Executive Order 12356 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;

(k) (2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k) (3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;

(k) (4) required by statute to be maintained and used solely as statistical records;

(k) (5) investigatory material compiled solely for the purpose of determining suitability eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence;

(k) (6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;

(k) (7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.

FBI/DOJ

[redacted]

HQ 1

(b)(1)

SECRET

[redacted]

~~TO SAC, NEW YORK~~ [redacted]

~~Classified by [illegible]~~
~~Declassify on: OADR~~

This case has been assigned captioned Bureau-approved code name and all subsequent communications involving this matter should be captioned as above. This action has been taken in order to better preserve the security of subsequent investigation in this matter. (S)

[redacted]

Bureau [redacted]
New York [redacted]
1 - New York [redacted]

[redacted]

SECRET

[illegible]

U NY [redacted] SECRET (b)(1)

[redacted]

In view of the above intense interest of the KGB in developing sources among librarians, the NYO is opening a control case, bearing this caption, to more closely follow this activity by the KGB. Copies of all communications involving Soviet interest in librarians should be submitted to this control file. (U)

[redacted]

The NYO will furnish additional recommendations to the Bureau as to what action can be initiated to counter the KGB efforts to develop sources and contacts among librarians. (U)

SECRET

ALL INFORMATION ON THIS
PAGE IS CLASSIFIED Secret
UNLESS INDICATED OTHERWISE

4-750 (Rev. 4-17-85)

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☒ Deleted under exemption(s) (b)(1) with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

____ Page(s) withheld for the following reason(s):

☐ For your information:

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(b)(1) HQ2

[redacted]

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[redacted] SAC, New York [redacted]

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(b)(2)

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[redacted]

Prior to authorizing implementation of the program set forth in referenced airtel, the Bureau desires that your office submit an estimate as to the approximate number of librarians who may be interviewed and the amount of manpower that might be expended.(

While it appears that your suggested approach to this problem is logical, the Bureau desires that such an interview program be most selective in nature and that an unwieldy and unnecessary caseload is not created. (U)

Upon receipt of your comments in this regard, the Bureau will give further consideration to your proposal. (U)

(b)(2) [redacted] is the Bureau code word for our investigation of attempts by the Soviet intelligence services (SIS) to contact and develop as sources a number of librarians employed in the New York City area.

[redacted]

Since the Bureau has no estimate as to the number of librarians who might be interviewed or the caseload that could be created, we are requesting that [redacted] submit an estimate in this regard so that we may judge this proposed program taking all factors into consideration

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SAC, NEW YORK

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In view of the emphasis being placed on the development of librarians in the greater New York area as sources for the KGB, the NYO is proposing the following investigative action in an attempt to counter this KGB activity. (S)

[redacted]

2 - Bureau
1 - New York
1 - New York

[redacted]

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26 [NY] [redacted]

[redacted]

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[redacted]

As an adjunct to the above procedure, consideration will be given to an interview of the chief librarian at a particular company for installation where the library staff is large. This individual would be interviewed as outlined above, but in addition he would be requested to alert members of his staff to our interest in this regard. It is felt such an (U)

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approach would be effective and would reduce the necessity of interviewing each librarian. (U)

[redacted] UACB, the above program will be instituted by the NYO. Any comments, observations or suggestions by the Bureau are invited. (U)

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(2) Bureau (RM)
New York

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(S) Regarding manpower to be expended, it is difficult to estimate. However, [redacted] it is not believed the manpower expended per case would be excessive. It is further strongly believed that the manpower expended would certainly be justified in view of the Soviet activity in this area and the necessity for the Bureau to fulfill its responsibilities in attempting to effectively counter this activity. If the KGB believes the development of librarians as sources is important and vital to its intelligence apparatus, certainly efforts by the Bureau to capitalize on this Soviet activity should not be negated by concern over manpower expenditure. (U)

(b)(2)

[redacted]

(U) If this program is authorized, investigation conducted therein should enable the NYO to determine whether additional efforts should be considered. [redacted] Additional recommendations and observations in this regard can be submitted when further analysis is made. (U)

The NYO recommends strongly the Bureau authorize implementation of this Program without delay. (U)

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20 SAC, New York [redacted] SECRET [redacted]

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[redacted] [redacted]

(b)(2)

[redacted]

The Bureau has carefully reviewed the program proposed in your referenced airtel to interview a number of librarians employed in technical libraries of interest to Soviet intelligence services (SIS). (U)

While it is recognized that such a program could be of some value in alerting those librarians to contacts by SIS personnel, could encourage their prompt reporting of such contacts to your office and might even uncover some individuals who have already been contacted, the Bureau does not feel that in light of other investigative priorities the results which might be obtained warrant a substantial expenditure of manpower at this time. (U)

Librarians at technical facilities having control over classified material should have been alerted to prompt reporting of contacts with communist-bloc officials by the military intelligence components responsible for their establishments. At those libraries where there is no classified material but where there is material which is of interest to SIS, it is recognized that SIS may indeed acquire such data. In an open society, however, it is impractical to attempt to prevent all Soviet acquisition of such readily available material and we must recognize realistic limitations in this regard. (U)

[redacted]

[redacted]

[redacted]

SEE NOTE PAGE TWO

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(b)(1)

Letter to New York (S)

(b)(2) [redacted]

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Of course, where there is specific information developed concerning SIS interest in a given library, then such selective interviews of personnel of that facility would be fully warranted and will be considered on the merits of the specific case. (S)

NOTE:

(b)(2) [redacted] is the Bureau code name for our investigation of attempts by the SIS to contact and develop as sources a number of librarians employed in the New York City area. [redacted]

With the ever increasing number of Soviets assigned to this country in an official capacity and the present limitations of available manpower to counter their activities, it is simply not practical to enter into such a program as is proposed by NYO at this time. It is recognized that some value would be derived from the program proposed by NYO but it is not believed that the results achieved would offset the losses in other investigative areas which would be necessitated by this use of our manpower resource. (S)

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HQ 6 [redacted]

(U) SAC, New York [redacted]

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(S) As will be recalled, this investigation was initiated by your office as a control case to follow the activities of the KGB New York Residency in its efforts to develop sources among librarians in the New York City area. (U)

[redacted] you recommended a program which called for interviewing a select number of librarians employed in technical libraries of interest to the Soviet intelligence services (SIS). FBIHQ reviewed your proposals at that time and decided that in view of other investigative priorities, the anticipated results did not warrant the expenditure of manpower. (U)

(S) A current review of this matter at FBIHQ reflects that you have opened a number of cases and it is requested that you review the results of investigation conducted in these cases with purpose of evaluating the SIS's progress in its development of technical librarians. (U)

(b)(2)

Submit your analysis and observations under the (U) [redacted] captioned (U)

[redacted]

(S) (U)

[redacted]

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(b)(1)

[Letter to New York]

(b)(2) [redacted]

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NOTE:

(b)(2) [redacted] is Bureau code name for investigation of efforts by Soviets to contact and develop librarians in the New York City area. [redacted] New York being instructed to review cases arising from this Soviet interest in libraries and offer observations and analysis as to further action. [redacted]

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- 2 -

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TO: SAC, NEW YORK [redacted]

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[redacted]

(U) Per instructions in reBulet the NYO has reviewed the results of investigation conducted in cases involving librarians employed in technical facilities. [redacted]

Analysis (U)

[redacted]

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[Observations]

From the above figures, it would appear that the SIS continues to be active in establishing contacts with technical librarians. [redacted] It would appear worthwhile to continue efforts to follow SIS activity in this area. While it is realized such efforts are time consuming, it is also pertinent that sources of value develop while at the same time enabling the Bureau to frustrate SIS efforts in its attempt to develop technical librarians.

Bureau comments and suggestions are invited.

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26 SEP 87
FEDERAL BUREAU OF INVESTIGATION

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FROM: NY 0 EMAIL U
SUBJECT: 263/119 PRIORITY U
DATE: 25 SEP 87 22:42:53 GMT U
CC: U
TEXT: VECZCZNY0113 U
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DE NY 33119 2682222 U
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FM FBI NEW YORK [redacted] (P) [redacted] U
TO DIRECTOR FBI [redacted] (I) PRIORITY U
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[redacted]

[redacted] SEPTEMBER 25, 1987 U [redacted] (U)

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[redacted]

[redacted]

APROXIMATELY EIGHTY (80) PERCENT OF THE MEMBER LIBRARIES WITHIN THE NEW YORK CHAPTER OF THE SPECIAL LIBRARIES ASSOCIATION LIMIT ACCESS TO STUDENTS, STAFF, CLIENTS, OR OTHER LIBRARIANS AND REQUIRE REGISTRATION AND/OR IDENTIFICATION FOR ASSISTANCE. (U)

LIBRARIANS ARE SPECIFICALLY ADVISED THAT THE FBI IS INTERESTED ONLY IN THOSE SOVIETS WHO ARE MEMBERS OF PROFESSIONAL ORGANIZATIONS WHO HAVE LIBRARIES AND RELATED ACCESS AND/OR THOSE SOVIETS WHO WOULD NOT HAVE ACCESS BUT REQUEST ACCESS TO OTHERWISE RESTRICTED LIBRARY PRIVILEDGES. THEY ARE SPECIFICALLY ADVISED THAT THE FBI IS NOT INTERESTED IN THE RESEARCH AND FACILITY USE BY STUDENTS, STAFF, (U)

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PAGE SIX OF HQ 0119 ~~S E C R E T~~ U ~~SECRET~~

FACULTY, OTHER LIBRARIANS, AND/OR CLIENTS WHO OTHERWISE QUALIFY FOR ACCESS. THE LIBRARIANS ARE APPRISED OF THIS BUREAU'S RESPONSIBILITIES WITH REGARD TO THE PROTECTION OF THE U.S. THEY ARE FURTHER APPRISED THAT THE TECHNICAL NEEDS OF THE SOVIET UNION CAN FREQUENTLY BE DERIVED FROM ANY VARIETY OF PUBLICATIONS REGARDING CURRENT AND "CUTTING EDGE" TECHNOLOGIES THAT CAN BE LOCATED IN THEIR FACILITIES. IF THE LIBRARIAN IS COOPERATIVE AND PURSUE OTHER COUNTRIES OF INTEREST, THE SOVIET BLOC COUNTRIES WILL ALSO BE INCLUDED. HOWEVER, OUR CENTRAL THRUST IS ONLY THE SOVIET UNION. (U)

ONE OF THE PURPOSES OF THIS LIBRARY AWARENESS PROGRAM IS TO RESOLVE ANY CONCERNS EXPRESSED BY LIBRARIANS REGARDING THE POSSIBLE USE OF THEIR RESOURCES BY HIS OFFICERS. LIBRARIANS ARE PROVIDED BUSINESS CARDS WITH TELEPHONE NUMBER FOR FUTURE CONTACT WITH THE INTERVIEWING AGENT. (U)

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[redacted] SAC, NEW YORK [redacted] [redacted]

[redacted] [redacted]

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[redacted] captioned case is maintained as a repository for information concerning SIS interest in technical and scientific libraries in the US, including specific employees of these libraries. [redacted]

[redacted]

[redacted] is anticipated that additional information will be received relating to KGB efforts to obtain information from particular libraries or to develop sources at such libraries. It is therefore deemed advisable to maintain this case as a repository for such information. [redacted]

[redacted]

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[redacted] (U) SAC, NEW YORK [redacted]

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Investigation in this matter was initiated in view of SIS emphasis on developing sources employed as librarian in technical or scientific libraries. It was originally intended that the NYO would open investigations on numerous librarians in the above category with the dual purpose of determining whether any Soviet personnel had contacted them and, if not, to alert them to such a possibility so that they would report any approach to the FBI. (U)

The Bureau subsequently instructed that in light of other investigative priorities the results to be obtained did not warrant the expenditure of the manpower required to implement this program. (U)

[redacted]

In view of the fact that no program has been established with regard to interviewing librarians, as set out above, no need exists to maintain this control file. Therefore, this case is being placed in a closed status (U)

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[redacted] (U)

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NY3

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[redacted] To: SAC NEW YORK [redacted] [redacted]

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Analyses and observations regarding the above review will be furnished to the Bureau as requested in referenced Bulet.

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NY4

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[redacted] To SAC, New York [redacted] [redacted]

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(b)(2)

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Re (U) Bulet [redacted] requesting the NYO to review results of investigation conducted in cases involving Lebanese employed in technical facilities. (U)

(U) By letter dated [redacted] the NYO furnished the Bureau with the results of the review. Since no other instructions or leads are pending in this matter, this case is being closed. (U)

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[redacted]

Historically, the Scientific and Technical Branch (Line X) of the [redacted] had a great interest in developing sources and contacts among librarians in the greater New York metropolitan area. U

[redacted]

Futhermore, historical analysis and/or information firmly establishes the GRU as well as Soviet Bloc intelligence services have pursued librarians as a source of information and targets for recruitment. U

[redacted]

Through this judicious initiation of cases and subsequent interviews, contact of librarians by a NIS can be definitely determined and those who have not been contacted will be alerted to the possibility of contact by a NIS, either alternative will serve to effectively counter attempts by the NIS to fulfill its responsibilities in recruiting sources of intelligence. (U)

[redacted] recommended this program be reinstituted. (U)

[redacted] New York [redacted] NY.

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NY 6

[redacted]

The Special Libraries Directory of Greater New York is divided into 36 library classifications. In order to facilitate implementation of this program, these classifications have received the following prioritization: (U)

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U

Information regarding this program will be provided to members of [redacted] and their assistance will be requested in including librarians in their security presentations as a part of the Development of Counterintelligence Awareness (DECA) program. Timely coordination should eliminate any duplication of effort in contacting those chief librarians of special libraries listed in the directory and whose organizations are scheduled for a DECA presentation as well as identify and initiate contact with special libraries not listed in the directory.

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Therefore, if appropriate, a determination should be made at each Development of Counterintelligence Awareness (DECA) presentation whether that organization maintains its own special library and if so, whether a representative from the library staff should be specifically included in the DECA presentation. (U)

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2 - New York

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NY8

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It is recommended a subfile be maintained for channelization and correlation of information received regarding the libraries within these classifications.

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2 - New York

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[redacted]

[[illegible]] (X)

[redacted]

(U) This is a reinstituted program which attempts to Develop Counterintelligence Awareness (DECA) among those who manage special information libraries within the New York metropolitan area and have no classified contractual interest with the United States Government but have historically been the targets of recruitment and sources of information for the Scientific and Technical Branch (Line X) of the Soviet

[redacted]

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[redacted]

[1-New York] (X)

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[(3)] (X)

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[SIX MONTH PROGRESS LETTER] (U)

[redacted]

(U) This is a reinstituted program which attempts to Develop Counterintelligence Awareness (DECA) among those who manage special information libraries within the New York metropolitan area and have no classified contractual interest with the US Government but have historically been the targets of recruitment and sources of information for the KGB-Line X and GRU. (U)

[redacted]

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1-New York [redacted]
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[SIX MONTH PROGRESS LETTER] U

[redacted]

(U) [This is a reinstituted program which attempts to Develop Counterintelligence Awareness (DECA) among those who manage special information libraries within the New York metropolitan area and have no classified contractual interests with the US Government but have historically been the targets of recruitment and sources of information for the KGB-[ ]and GRU] [redacted]

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U [(U) New York] [redacted]

U [(U)]

[redacted]

[redacted]

During the next six months, more interviews of individual librarians will be attempted and an expanded format for reporting library use by the SIS will be requested.(U)

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U U [redacted]

NYHQ

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[redacted] THE BUREAU RECOMMENDED THIS PROGRAM BE DISCONTINUED AS IT WAS FELT IT HAD BECOME UNDULY BURDENSOME OF MANPOWER AND DUPLICATED THE DECA PROGRAM.

[redacted] THIS PROGRAM WAS REINSTITUTED TO DEVELOP COUNTERINTELLIGENCE AWARENESS AMONG THOSE WHO MANAGE SPECIAL INFORMATION LIBRARIES WITHIN THE NEW YORK AREA AND HAVE NO

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SECRET

CLASSIFIED CONTRACTUAL INTEREST WITH THE US GOVERNMENT. (S)

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(b)(7)(C)
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[redacted]

THEREFORE, THIS PROGRAM IS AN ONGOING INVESTIGATION SOLICITING THE COOPERATION OF INDIVIDUAL MEMBERS OF THE NEW YORK CHAPTER OF THE SLA TO ASSIST THE FBI IN FULFILLING ITS [illegible] RESPONSIBILITIES. (S)

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[redacted] COLUMBIA UNIVERSITY, MANHATTAN, NEW YORK, WAS CONTACTED BY SA [redacted] AND ADVISED OF THIS PROGRAM. [redacted] INDICATED IT WAS COLUMBIA UNIVERSITY'S POLICY NOT TO DIVULGE ANY INFORMATION WHICH WOULD IMPINGE ON THE RIGHT TO PRIVACY OF ANY INDIVIDUAL WHO MIGHT UTILIZE THEIR LIBRARY SYSTEM. [redacted] STATED THAT NEITHER SHE NOR ANY LIBRARIAN EMPLOYED AT COLUMBIA UNIVERSITY WOULD BE ABLE TO ASSIST THE FBI. (S)

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[redacted]

Captioned program is maintained as a repository for information concerning SIS interest in scientific and technical libraries or librarians within the New York metropolitan area, which would not be covered by the DECA program, as well as selectively contacting specific libraries it could reasonably be assumed would be of particular interest to the SIS. Asset reportings have revealed the SIS frequently attempted to obtain information from such libraries and developed personal contacts at these libraries. (U)

It is anticipated additional information will be developed relating to SIS efforts to obtain information from or develop contacts at such libraries; therefore, it is requested all information regarding such activity by the SIS be submitted to this program. (U)

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3-New York

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[Date 9/25/87] u

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[Em] [3]25

[~~This entire communication is classified "Secret."~~] u

[SIX-MONTH PROGRESS LETTER] u

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[redacted]

(S) [This is a reinstituted program which attempts to Develop Counterintelligence Awareness (DECA) among those who manage special information libraries within the New York metropolitan area and have no classified contractual interest with the US Government but have historically been the targets of recruitment and sources of information for the KGB and GRU] [redacted]

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FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☒ Deleted under exemption(s) (b)(1) with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

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☒ The following number is to be used for reference regarding these pages:
NY-14

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FBI/DOJ

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Columbia University, Manhattan, declined any assistance regarding this program by any Columbia University library. Subsequently, as a result of this interview, letters were received at FBIHQ from the American Library Association and the New York Library Association requesting clarifications of this program. On 9/18/87, an article entitled "F.B.I. In New York Asks Librarians' Aid In Reporting On Spies" by ROBERT D. MCFADDEN appeared in the NEW YORK TIMES newspaper.

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AMERICAN CIVIL LIBERTIES UNION

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June 20, 1988

The Honorable Don Edwards, Chairman
Subcommittee on Civil and Constitutional Rights
House Judiciary Committee
2307 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Edwards:

On behalf of the ACLU, we write to you today to express our concern about the FBI's counterintelligence activities in the library community, known as the "Library Awareness Program."

The ACLU believes that the FBI should be prohibited from engaging in an ill-conceived, broad-based counterintelligence campaign in our nation's libraries. The FBI's investigations should be limited to instances in which the Bureau reasonably suspects that an individual is engaged in activities which makes him or her a legitimate target of a counter-intelligence investigation. In addition, the FBI must itself follow the law by presenting a court order for information related to library patron use.

We are opposed to the FBI asking library personnel to violate state confidentiality laws by divulging patrons' records related to use of unclassified, publicly available materials. Thirty-seven states, including the District of Columbia, require a court order be presented before library records may be released. In addition, library personnel are being asked to act in contravention of their own policies by divulging records and informing the FBI of suspicious, out of the ordinary behavior by library users.

Contrary to the implication of recent testimony by FBI Director William Sessions, the FBI's broad-based library activities are not limited to New York libraries. Investigative activities, virtually identical to the Library Awareness Program, have been reported at more than twenty libraries nationwide. The FBI has asked library personnel in academic and public libraries to divulge records related to library use and to report on "anomalous" library use. The library community reports that the FBI has used this approach at the University of Cincinnati, University of Utah, George Mason University, Pennsylvania State University, and the Broward County Public Library in Florida.

We suggest the Subcommittee request that the FBI produce guidelines and procedures on the Library Awareness Program and related activities. More importantly, we urge the Subcommittee: 1) to require the FBI to abide by state law and to honor the professional and ethical codes of the library community; and 2) to narrowly circumscribe the scope of FBI intelligence gathering activities in institutions, such as libraries, that play a crucial role in preserving the freedom of citizens to receive and exchange ideas.

We commend you for your early and vigorous response to the Program. We are available to work with you on this matter.

Sincerely,

Mort

Morton H. Halperin
Director

Janlori Goldman

Janlori Goldman
Staff Attorney

People For The American Way
ACTION FUND

June 28, 1988

The Honorable Don Edwards
Chairman
House Judiciary Subcommittee on
Civil and Constitutional Rights
2307 Rayburn
Washington, D.C. 20515

Dear Chairman Edwards,

I am writing to you on behalf of the 270,000 members of the People for the American Way Action Fund, a nonpartisan constitutional rights organization. We wish to thank you for holding the oversight hearings you have been conducting on the Federal Bureau of Investigation's counterintelligence activities in our nation's libraries. In addition, we wish to reiterate our concern about the FBI's activities.

We believe that the FBI's counterintelligence activities in our nation's libraries raise serious constitutional and policy questions. The FBI has the dual responsibility to conduct itself within the framework of the Constitution and law, and to be accountable to Congress and the American people. We believe that the FBI has failed in this regard.

As the testimony presented to the subcommittee last week made clear, the FBI's "Library Awareness Program" and related activities represent a very real assault on the privacy of individual citizens. Thirty-eight states in the nation have laws protecting the confidentiality of library circulation records. Yet, the evidence suggests that the FBI is circumventing those laws by requesting information on reading habits of individuals. Not only is the FBI's policy of training librarians to become spycatchers an invasion of citizen's privacy rights, but the program also forces librarians to violate their own professional and ethical standards. Moreover, the FBI's "counterintelligence" effort restricts citizens access to unclassified information that should be available to all Americans.

Because of our concerns about the FBI's program, People For the American Way's Legal Defense Fund recently assisted the National Security Archive in filing a lawsuit under the Freedom of Information Act to force the release of documents relevant to the Library Awareness Program. The lawsuit was filed after eleven months of stonewalling in response to repeated FOIA requests by the National Security Archive for more detailed information about the program.

While the litigation may ultimately uncover some details of the FBI program, we believe it is appropriate for your Subcommittee to require that the FBI provide to the Congress and the American people a complete account of the policies and guidelines for the "Library Awareness Program" and related activities. We ask that the Subcommittee mandate that the FBI conduct itself in accordance with our nation's laws, including state laws, and to respect the professional and ethical codes of librarians. In the event that the FBI refuses to comply, we would urge the Congress to take measures through the authorization and appropriations process to limit the scope of FBI intelligence gathering in our nation's libraries.

From all available evidence, the FBI's "Library Awareness Program" and its related activities are infringing on the rights of Americans. The FBI cannot justify programs which undercut fundamental democratic values in the name of promoting and protecting democracy.

Attached is a background report People For the American Way prepared on the FBI's Library Awareness Program.

Thank you.

Sincerely,

John H. Buchanan, Jr.
Chairman

Arthur J. Kropp
President

People For The American Way
The non-partisan constitutional liberties organization.

The FBI's Library Awareness Program
Background Report

On June 8, 1987, two agents from the Federal Bureau of Investigation (FBI) approached the clerk at the Math/Science Library at Columbia University in New York, asking for information about the use of that library by "foreigners." The agents were directed to Paula Kaufman, Columbia's Director of Academic Information Services, and again requested information on library patrons from countries "hostile to the U.S., such as the Soviet Union." Outraged, Kaufman immediately informed the American Library Association (ALA) of the incident. Three months later, the New York Times broke the story on the FBI's "Library Awareness Program," a program which until that time had been kept secret from the American public.

Since then, investigative journalists have exposed a sweeping effort by the FBI to turn librarians into unofficial "spies," gathering information for the Bureau on the reading habits and activities of foreigners and other broad categories of "suspicious" individuals. Most alarming are reports of "fishing expeditions," in which the FBI is asking librarians to produce circulation records of books, interlibrary loans, and data base requests.

Continuing reports in the media about the FBI excursions into public and academic libraries, and FBI stonewalling in response to repeated demands for a full accounting of the program, have outraged the American public.

The FBI has attempted to defuse this public pressure by making limited statements on the program, including a closed briefing to the U.S. National Commission on Libraries and Information Science. Many of the official FBI statements on the program, however, have been contradicted by other FBI officials, by library officials approached by the FBI, as well as by testimony before Congress. Efforts by non-profit organizations such as the National Security Archives and the American Library Association to gain access to information on the program through Freedom of Information Act requests have been fruitless. Official requests for information by Congress have also been ignored.

Since this country was founded, there has always been a tension between the need to protect our nation from the threat of hostile forces and the need to protect the constitutional rights of our citizens. This conflict is reflected in the different descriptions of the "Library Awareness Program." The FBI describes it as a "narrowly focussed" project necessary for maintaining our "national security." The American Library Association, however, calls it "an unwarranted government intrusion upon personal privacy."

2000 M Street, NW, Suite 400, Washington, D.C. 20036 (202) 467-4999

At a minimum, the American public has the right to know the full story about this program. The limited information that has already been uncovered shows a program that threatens basic constitutional liberties, including the right of privacy and intellectual freedom. The project also raises broader questions of government secrecy and government intrusion into the private lives of American citizens -- problems which have increased dramatically under the Reagan administration.

In short, the Library Awareness Program appears to threaten some of the very freedoms it purports to be protecting.

WHAT WE KNOW -- AND DON'T KNOW -- ABOUT THE LIBRARY AWARENESS PROGRAM

Our present knowledge of the FBI's "Library Awareness Program" is limited and often contradictory. There is no agreement, for example, on basic facts such as when the program was initiated. Various accounts, including those from the FBI, put the start at one year ago, ten years ago, and twenty-five years ago. The following section explores some of the information that has become public over the past year, including information drawn from media accounts and official FBI statements on the program.

The Scope of the Program: Limited or Far-Reaching?

The actual scope of the "Library Awareness Program" is unknown. According to newspaper reports, FBI agents have been approaching librarians and clerks in both public and academic libraries around the country, asking broad questions about the reading habits of their patrons, and requesting librarians to report any "suspicious" activities they encounter. Those interviewed have reported that the FBI's requests concerning circulation records and their descriptions of who is "suspicious" are so broad and vague that they invite abuse. The requests have been condemned as an unwarranted invasion of privacy and confidentiality of all library patrons.

The FBI, on the other hand, has attempted to draw a narrow definition of the program, calling it a limited effort aimed at educating "knowledgeable individuals in specialized libraries" to the threat of "hostile" intelligence officers working in the U.S. "We're not trying to make librarians spies" says Thomas DuHadway, deputy assistant director of the FBI's Intelligence Division. The purpose, says the Bureau, is to warn librarians that they could be recruitment targets of hostile powers, and that libraries have historically been the favored locations for spies to gather both valuable information and to recruit agents.

Librarians' experiences across the country tend to confirm the "fishing expedition" approach, however, and raise serious questions about just how "limited" the FBI's program is.

For example, the FBI, apparently in the absence of any firm leads, has approached librarians asking about general categories of people.

** A librarian at Columbia was asked about any "foreigners" using the library.

** At the University of Maryland, the FBI agent demanded information about the reading habits of individuals with "East European or Russian-sounding names."

** An FBI agent went to the Brooklyn Public Library and warned the librarian that "persons acting against the security of the United States" might come in, and to report them if they do. Another FBI agent came in, flashed his badge, and told the librarian "to look out for suspicious looking people who wanted to overthrow the government."

** One FBI spokesperson tried to explain the program this way: "We're not looking at authors. We're looking at people who want to read authors."

The FBI has also made broad requests for information about library records and general areas of reading.

** The FBI agents at Broward Country Library in Florida, for example, wanted access to data bases showing checkout records.

** FBI agents at the University of Houston sought to monitor books checked out by interlibrary loans. The librarian was told "Certain Russians are acquiring economic materials which could benefit them."

** One librarian was asked to produce a computer search of areas that East European or Russian-sounding individuals were interested in.

FBI instructions to librarians on how to recognize "suspicious" individuals or activities are so broad that a large number of innocent people could be caught up in the inquiry or surveillance. Abuse of the program is inevitable.

** One FBI agent said that "an alert librarian would be able to see what kind of person you are. They could check your handwriting, see whether you're a research student or whether you're crazy or whether you're a threat."

** According to the FBI, suspicious activity would include swapping documents with other library patrons, speaking a foreign language, or requesting texts on "underground tunneling, military installations, or technological breakthroughs."

** Another explanation of what to look for goes as follows: "We're asking library personnel to be alert to unusual behavior on the part of individuals who *could* be Soviet nationals and students from countries that *could* be hostile to the United States." It appears that wild guesswork is necessary to accomplish the FBI's goals.

Some of the "tips" on what librarians should look for border on the absurd. According to an FBI report recently released to the Senate Judiciary Committee, entitled "The KGB and the Library Target 1962 - Present," librarians would have reason to contact the FBI regarding an individual if "he identifies himself as a Soviet National ... and wishes to have assistance in conducting research in the library" or "is observed departing the library after having placed microfiche or various documents in a briefcase without properly checking them out of the library."

Monitoring suspected foreign agents and apprehending people who break anti-espionage laws is certainly a legitimate and necessary part of the FBI's counterintelligence responsibilities. Preventing illegal activity such as people stealing books or microfiche from the library is clearly part of a librarian's job. The "Library Awareness Program," however, appears to go way beyond such concerns in ways that violate basic principles of trust, confidentiality, and the constitutional protection of privacy.

Geographic Reach of the "Library Awareness Program": Limited to the New York Area or Nationwide?

There are serious questions about the geographic scopes of the program. Media reports say the FBI's program reaches across the country, not only into special research libraries but into public libraries and general university libraries as well.

The FBI, however, first claimed that the program was limited to specialized libraries in the New York area. Later, during a closed briefing of the National Commission on Libraries and Information Science, an FBI official said that the FBI had approached 25 libraries, but that it was a "very, very limited, small approach" that was responding to a "specialized problem in New York, Washington, D.C. and maybe San Francisco."

The following is a partial list of libraries across the country which have been approached by the FBI since 1985 -- gathered from various newspaper articles and the American Library Association's Office for Intellectual Freedom. It is not known whether these incidents were part of the "Library Awareness

Program" or involved another FBI program.

** The Math/Science library at Columbia University, New York City, New York
** The Brooklyn Public Library, New York City, New York
** The Courant Institute of Mathematical Sciences at New York University, New York City, New York
** The chemistry library at the University of Maryland, College Park, Maryland
** The research library at the State University of New York at Buffalo, New York
** George Mason University, Virginia
** The Broward County library in Fort Lauderdale, Florida
** The library at University of Houston, Houston, Texas
** The main library at the Pennsylvania State University
** The engineering library at the University of Cincinnati, Cincinnati, Ohio
** The engineering and mathematical sciences library the University of California, Los Angeles.
** The Engineering-Transportation Library at the University of Michigan
** The Memorial Library at the University of Wisconsin - Madison, Madison, Wisconsin
** University of Utah

The FBI has refused to release the names of libraries with which it has initiated contacts.

Questionable Techniques of the FBI Agents

Although the FBI has consistently claimed that the program is purely voluntary and that the librarian has the right to refuse to cooperate, there have been numerous reports of scare tactics and other questionable techniques used by the FBI. Librarians have reported being intimidated by FBI agents who flash their badges, request closed-door meetings, question the librarian's patriotism, and, -- on one occasion -- claimed that they were authorised to circumvent state library confidentiality laws against disclosures. Librarians have complained that the FBI never makes an appointment, and rarely meets with the supervisor at the library, tending to contact the lower-level staff, who are less prepared to question their authority.

The FBI has apparently gone further than merely requesting assistance. On one occasion, according to an article published in the Wall Street Journal, the FBI went to the home of a librarian at the New York Public Library and grilled him on his contacts with the Cuban Mission to the United Nations. More serious, however, are reports by the ALA that the FBI has on at least one occasion used taps on telephone lines to reference desks, as well as hidden cameras, to spy on library patrons' activities.

Related Programs: Computerized Big Brother?

While the FBI has not formally acknowledged going beyond university and public libraries to keep tabs on who is requesting what kind of information, there have been a few hints of a broader campaign. In 1986, for example, the FBI, the Air Force and the CIA went to Mead Data Central, and expressed their concern that hostile agents were interested in their computerized information systems. Mead Data Central produces and operates the huge "NEXIS" computer data base of newspapers, magazines, and legal and technical publications, used by writers, researchers and students across the country. Mead reportedly turned down the government's request, arguing that "the information on NEXIS had all been previously published and shouldn't be a matter of concern to the federal government."

In another instance, the FBI went to a private research company, Charles E. Simon Co, with a similar warning about foreign agents and requests for assistance. The company retrieves documents about corporations from the Securities and Exchange Commission. According to a company official, the FBI asked if anyone from the "eastern bloc" was making inquiries. According to an article in The Bureau of National Affairs newsletter, the FBI agent reportedly said that "most companies, if they are patriotic ... would be more than helpful."

Given the enormous range of information in such computerized clearinghouses, and the number of people using them on a daily basis from their private homes or offices, the fact that the FBI is making inquiries into who is using such systems is troubling indeed.

THE LIBRARY AWARENESS PROGRAM RAISES SERIOUS LEGAL AND CONSTITUTIONAL QUESTIONS

1) Material Available in Our Libraries: Is it a Legitimate National Security Concern?

One of the issues that has been raised concerning the Library Awareness Program is whether materials available in our public and university libraries could, if gathered by "hostile" agents, constitute a threat to our national security. The answer is no. Public and university libraries do not have classified information or documents. As the director of libraries in Broward County, Florida says: "Even in our technical library there isn't anything classified, nothing you couldn't get by reading ... Aviation Week."

The FBI admits that no classified information is available. They go so far as to say that almost 90 percent of everything that the Soviets gather in the U.S. is "free and open to anyone."

Their argument is that there is "sensitive" material that, if pieced together, could be useful to a foreign hostile power.

There are elaborate government classification procedures designed to classify any government document that should not be released on national security grounds. Public and academic libraries don't have such documents. The FBI argument that it must keep tabs on individuals looking at potentially "sensitive" but unclassified material is a broad invitation to go on a fishing expedition. As one librarian asked, is the next step to classify road maps, since they give the locations of bridges that could be blown up?

If there is to be a balance sheet weighing government intrusion against the threat to constitutional rights of privacy and intellectual freedom, the "Library Awareness Program" has again skewed the balance.

3) Does the Program Involve Serious Legal and Ethical Violations?

Most Americans assume that when they check out a book in the library that their selection is confidential. In fact, there are laws in 38 states which specifically protect the confidentiality of circulation records. Whether a person checks out Karl Marx or Jackie Collins, his or her choice of reading matter cannot be disclosed to anyone without a court order. One of the questions raised by the FBI's program is whether the FBI is authorizing its agents to circumvent the state laws by requesting information on the reading habits of individuals or "suspect" groups, including circulation records. There is evidence that on at least one occasion, an FBI agent told a librarian that foreigners were not protected by such laws.

Whether a state has such a law or not, however, there is a policy, articulated by the American Library Association, which forbids disclosures of a person's reading habits. The ALA policy was articulated in 1970, when federal Treasury agents entered the Milwaukee Public Library and demanded the names of every person who had checked out books on explosives. The ALA's formal policy includes the statement "the efforts of the federal government to convert library circulation records into 'suspect lists' constitute an unconscionable and unconstitutional invasion of the right of privacy of library patrons."

If the FBI or any other government agency has reason to believe that an individual is breaking the law, or could be an intelligence agent from a hostile country, then it should follow the law and produce a subpoena. This is not the case, it appears, in the vast majority of incidents so far reported. From what we know, the Bureau is violating both the legal and ethical boundaries of library confidentiality.

3) Will the Program have a Chilling Effect on Library Use?

The library is a symbol of intellectual freedom -- a place where one can sit down privately and delve into whatever subject one chooses without fear of exposure or intimidation. It is also the repository of our nation's educational and scientific information. It is not surprising, therefore, that the academic and public library community has responded with outrage to what they see as an unwarranted government intrusion. Their main concern, of course, is that the "Library Awareness Program" will intimidate all library patrons. As Judith Krug of the American Library Association says, "This surveillance casts a shadow over library users. They'll begin to wonder who's watching, and are they looking at the wrong topics? Are they doing something that could be construed as un-American?"

Rep. Don Edwards (D-Calif.), a former FBI agent himself, has become an outspoken critic of the program. He too warns that to turn librarians into arms of the federal government degrades "the entire library system in the eyes of the citizens of the United States."

Even the FBI admits that for a librarian or a library spokesperson to admit involvement in the program is to risk alienating library users, and places the institution under a cloud of suspicion. "Librarians can't admit they're cooperating with us," says the Bureau, "because it would make them suspect."

The "chilling effect" on all library patrons that they are being watched -- whether they are or not -- is a real one. By requesting information on categories of people, such as those who speak Russian, as well as information on who is checking out books or materials relating to certain subject categories, the FBI is threatening the trust and confidentiality that all library patrons have a right to assume. The program also threatens to "chill" the broader area of academic and scientific inquiry so essential to our advancement as a nation.

THE PUBLIC HAS THE RIGHT TO KNOW WHAT ITS GOVERNMENT IS DOING

Informed citizens are essential to the democratic system of government. Only an informed citizenry can debate public issues, hold elected officials accountable for their actions, and offer meaningful consent to the actions of their government. The American people have a right to know what its government is doing, unless there is overwhelming evidence that such disclosure will harm our nation's security. Until recently, however, the average American citizen had no legal recourse to gain access to information that the government wanted to keep secret. Enacted in 1966, the Freedom of Information Act has become the cornerstone of the people's right to know, at last giving citizens an enforceable means of gaining access to government reports and documents.

The public's right to know and the increasing problem of government secrecy have been a focus for People for the American Way's activities over the past two years. People For had been committed to pressing for greater educational and intellectual freedom since its inception in 1980, with its work on censorship of educational materials in schools and libraries across the country. It has since broadened its concern in this area. People For's report last year entitled "Government Secrecy: Decisions Without Democracy," documents the institutionalization of government secrecy -- especially its explosion under the Reagan administration. People For has also testified in support of state library record confidentiality laws, and has worked with both House and Senate Committees in formulating inquiries into the "Library Awareness Program."

Various other public interest groups have become instrumental in the broad effort by Americans to gain access to the inner workings of their government. The National Security Archive is a non-profit research institute and library facility in Washington, D.C., serving scholars, journalists, and the American public. It makes available internal government documents on a variety of foreign, intelligence, defense and international policies, many of which have been obtained through Freedom of Information Act requests.

On June 2, 1988, People for the American Way and the National Security Archive joined together in a lawsuit, National Security Archive v. the Federal Bureau of Investigation, to compel the FBI to release information under the Freedom of Information Act on the "Library Awareness Program." The People For the American Way Legal Defense Fund has secured for the Archive the pro bono legal services of Washington, D.C. based law firm Covington and Burling.

The History of the National Security Archive's FOIA Request

The history of the National Security Archive's request for information on the FBI's "Library Awareness Program" is a history of denial and foot dragging.

** On July 10, 1987, the National Security Archive filed a Freedom of Information Act request for information on the FBI's "Library Awareness Program."

** On August 21, 1087, the FBI responded to the Archive's request by claiming there were "no records" responsive to the request.

** On September 30, 1987, less than two weeks after the New York Times ran its original piece on the program, the Archive filed another FOIA request, this time sending it to the FBI's New York office. It reiterated its request for all records on the program, including documents describing the nature, the purpose, the authority of the program as well as the instructions given to participants.

** On October 14, 1987, the FBI said it had made an error, and the documents requested by the Archive did in fact exist, and were being forwarded to the FBI headquarters in Washington, D.C.

** Since October of 1987, the Archive has not received one document from the FBI. In fact, on April 28, 1988, the Archive's special counsel was informed by the Deputy Chief of the FBI's Freedom of Information Section that "no release of records was imminent."

** On June 2, the National Security Archive, assisted by People for the American Way, filed a lawsuit in the U.S. District Court for the District of Columbia. Arguing that documents have been denied "without legal justification," the lawsuit asks the court to order the FBI to release all requested documents and to expedite the proceedings.

Conclusion

Because of the FBI's refusal to make public what it knows about the program, much of the story of the Library Awareness Program remains untold. What is known, however, is cause for great concern.

We live in a sometimes hostile world, and to protect our national security interests, the FBI and other agencies need to conduct counter-intelligence activities. But those activities must be conducted in a manner consistent with the Constitution and the Bill of Rights. In its haste to catch Soviet and other spies, there is evidence that the FBI is running roughshod over Americans' rights.

The FBI's Library Awareness Program is an affront to the intellectual freedom at the core of our open democracy, and a gross violation of citizens' constitutional privacy rights. The vagueness of the guidelines given to librarians coupled with the use of intimidation tactics is a broad invitation for abuse. And the notion that citizens would come under suspicion based on the spelling of their names or the sound of their voice is repugnant in a free and open society.

In a speech given at the Virginia Convention 200 years ago, James Madison said: "I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpation." The FBI's Library Awareness Program is of course not a "violent" or "sudden" usurpation of power. It is, however, one small part of that "gradual and silent encroachment" of basic liberties and freedoms that are essential to a democratic system of government.

Sources and Articles Reviewed for this Report

"The KGB and the Library Target 1962 - Present," prepared by the Intelligence Division, FBI Headquarters.

Transcript of the "FBI Presentation to the U.S. National Commission on Libraries and Information Science," by Tom DuHadway, presented on January 14, 1988 at the San Antonio Public Library, San Antonio, Texas.

"Libraries Are Asked by FBI to Report on Foreign Agents," New York Times 9/18/87.

"The FBI's Invasion of Libraries," the Nation magazine, 4/9/88.

"FBI Recruits Librarians to Spy on 'Commie' Readers, Wall Street Journal, 5/19/88.

"Librarians Want FBI to Shelve Requests About Foreign Readers," The Washington Post, 3/27/88.

"The FBI Spy Program Bothers Librarians," New York Times, 5/15/88.

A report on the FBI's program in the Daily Report for Executives, published by the Bureau of National Affairs, 2/26/88.

"FBI asks librarians to help in the search for spies," Philadelphia Inquirer, 2/23/88.

Canisius College

JUN 10 1988

Andrew L. Bouwhuis Library

June 8, 1988

Dear Mr. Edwards:

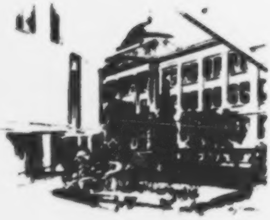
I am writing to protest, in the strongest possible terms, the FBI's Library Awareness Program. As a librarian I resent the subversion of the library's role as universal disseminator of information. As a citizen I resent the federal government's incursion into the civil right to privacy of every library user.

I urge you to do everything in your power to see that the appropriate congressional committees investigate or hold public hearings on this program.

World peace and internation co-operation are fostered by universal sharing of knowledge. The library community is extremely resentful at being asked to play a role diametrically opposed to that. Please use your influence to expose the FBI's underhanded, backstreet tactics.

Sincerely,

Adelaide H. Schroeder
Circulation/ Interlibrary
Loans Librarian



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Academic and Christian Excellence
Our Tradition—Our Vision

Riley-Hickingbotham Library

1988

June 1, 1988

The Honorable Don Edwards
Chair, Subcommitte on Civil and Constitutional Rights
806 House Annex #1
Washington, D.C. 20515

Dear Congressman Edwards:

It has recently come to my attention that the Federal Bureau of Investigation is conducting a "Library Awareness Program." The Bureau has asked several public and academic libraries to furnish information about "suspicious-looking" patrons who may be from countries "hostile to the United States." The Intellectual Freedom Committee of the American Library Association has verified fourteen visits by FBI agents, the Bureau acknowledges at least twenty-five.

As an academic librarian, I am concerned about any program which violates the First Amendment rights of my patrons. Any attempt to monitor the flow of unclassified information necessarily impedes that flow. An educated citizenry is necessary in order for a democracy to function. Foreign nationals in this country are entitled to the same First Amendment protections as are our citizens.

I would like to see the FBI's "Library Awareness Program" stopped. At the very least, the program should be closely monitored by Senator Boren's Select Committee on Intelligence or Congressman Stokes' Permanent Select Commitee on Intelligence. I hope that the appropriate congressional committees investigate the "Library Awareness Program" and hold public hearings.

I find it particularly distasteful that the FBI is recruiting library staff members. The actions of any staff member involved are in direct conflict with librarians' professional ethics and an actual violation of the law in thirty-eight states and the District of Columbia.

Sincerely yours,

Jean Rick

Jean Rick
Circulation/Reference Librarian

Ouachita Baptist University • Arkadelphia, Arkansas 71923 • (501) 246-4531

UWEC University of Wisconsin-Eau Claire
Eau Claire, Wisconsin 54701
William D. McIntyre Library

26 October 1987

NOV 2 1987

Hon. Donald Edwards
Congressman from California
Chair of the House Subcommittee on Civil and Constitutional Rights
United States House of Representatives
Washington, DC 20515

RE: FBI "library awareness" program.

Dear Congressman Edwards:

The Federal Bureau of Investigation has a program to derive information on library use by foreign nationals, who enjoy in this country the same First Amendment rights that citizens enjoy. Attempts at these investigations have occured at Columbia University, Queens College and the New York Public Library, as reported on page one of the New York Times of 18 September 1987.

The confidentiality of library records has been a principle upheld and defended by the American Library Association for many years. Some thirty-six states (including California) have adopted laws protecting this confidentiality.

Access to information must be protected, however difficult are the realities of the protracted antagonism of our society (which can keep nothing secret) with the Soviets (who make nothing public). Freedom and the free flow of information are two of our most effective weapons in the defense of our national interest and prosperity.

I urge your committee to conduct a thorough investigation into this apparent violation of academic freedom and access to information by the FBI.

Sincerely,

Steve Marquardt
Director of Libraries

c: Judith F. Krug, Director, Office for Intellectual Freedom, American Library Association.

sm10/fbi

Accepting the Challenge of Excellence

New York University
A private university in the public service

Division of Libraries, New York University Press, University Archives
Elmer Holmes Bobst Library
Office of the Dean

70 Washington Square South
New York, N.Y. 10012

MAY 16 1988

May 11, 1988

The Honorable Don Edwards
Chair, Subcommittee on Civil and Constitutional Rights
806 House Annex #1
Washington, DC 20515

Dear Congressman Edwards:

Thank you for hosting a meeting for library and other concerned organizations concerning the FBI's Library Awareness Program during the American Library Association's Legislative Day in Washington. As you well know, librarians are the most outspoken of advocates for free access to information. At the same time, we are fully committed to protecting the right to privacy -- for all of our users -- with respect to information sought or received, and materials consulted, borrowed, or acquired. When we are approached by anyone requesting information about users of our collections, we simply will not cooperate. Furthermore, in New York State, like 38 other states, we have a law protecting the confidentiality of library circulation records.

Over two years ago, New York University's Mathematical Sciences Librarian was visited by the FBI. The agent asked the librarian if there were members of the Soviet mission to the United Nations who requested sensitive information available through online databases or copied large amounts or unusual types of information. The agent told her that 1 out of every 3 members of the Soviet mission were spies.

The librarian responded to the agent's request by explaining that no Soviet delegates used that library and that we held no classified information. She went on to say that our database searches were available to NYU faculty and students only and that our photocopy machines were self-service. The agent then told her that a clerk or student assistant might get involved with copying for these delegates and might offer them a hefty fee in order to establish a rapport with the student. She finally told the agent that this was not how the library operated and he left. Two or three months later, the librarian received a phone call following up on "you know what" and asked if she had anything to report. She did not and never heard from him again.

The administration, faculty, and students of New York University are outraged at this incident and the prospect of future FBI visits. We simply do not wish to have our readers feel that they may be under surveillance by intelligence agents. Furthermore, we want to assure all library users of their right to read freely and to explore ideas without question of their motives.

At New York University we believe this type of invasion into the privacy of the American public is an unwarranted threat to our civil liberties. We urge you to request that the FBI end its Library Awareness Program and all related activities that lead them to unwarranted scrutiny of library users. Given that a library in Utah was visited just this past week, it is crucial that the Congress act immediately to impose appropriate restrictions on these intelligence gathering activities.

I am happy to provide you with additional information and hope you will hold hearings on this issue soon. We appreciate the opportunity to share our concerns.

Sincerely,

Nancy C. Kranich

Nancy C. Kranich
Director, Public and
Administrative Services
and
Chair, Coalition on
Government Information

cc: American Library Association
American Civil Liberties Union

/nk
ext257

GEORGIA LIBRARY ASSOCIATION

Supporting Georgia Libraries since 1897

Thomas F. Budlong, Jr.
3340 York Place
Decatur, GA 30032

June 20, 1988

Congressman Don Edwards
Chair, Subcommittee on Civil and Constitutional Rights
806 House Annex #1
Washington, DC 20515

Dear Congressman Edwards:

I am writing to strongly urge your Committee to investigate the Federal Bureau of Investigation's "Library Awareness Program." This program, in which FBI agents approach librarians and other library personnel requesting their assistance in monitoring "suspicious-looking" persons who may come from countries "hostile to the United States," runs counter to the First Amendment right to privacy of our library patrons.

Free access to a variety of ideas regardless of the status of the inquirer forms the basis of our nation's library services and is a bulwark for our democracy. As long as all persons in this country, whether citizens or foreign nationals, are afforded equal First Amendment protection of speech, we cannot allow this invasion of privacy. As long as the materials which these persons seek remain unclassified, we cannot restrict their access to them.

In addition, such cooperation would place librarians in our state in violation of the State of Georgia's Confidentiality of Library Records Statute as is the case in thirty-seven other states and the District of Columbia. This program must be stopped, and I urge you to support the library community's efforts to curtail this insidious FBI practice.

Sincerely,

Thomas F. Budlong, Jr.
Chair, Intellectual
Freedom Interest Group
Georgia Library Association

PRESIDENT
VICE PRESIDENT/PRESIDENT ELECT
SECOND VICE PRESIDENT
SECRETARY
TREASURER
EXECUTIVE SECRETARY

NEW YORK LIBRARY ASSOCIATION
15 PARK ROW SUITE 434
NEW YORK, NEW YORK 10038
(212) 227-8032
NYLA

October 9, 1987

Congressman Don Edwards
Chairman
Subcommittee on Civil and Constitutional Rights
806 House Annex #1
Washington, DC 20515

Dear Congressmen Edwards:

The New York Library Association has watched in amazement the activity of the Federal Bureau of Investigation regarding its "Library Awareness Program". To approach librarians to ask for help in identifying users who might be nationals of hostile powers seeking sensitive information, runs counter to New York State law (CPLR 4509, June 1982), the Librarians' Code of Ethics, and First Amendment Constitutional rights guaranteed to all citizens.

We have expressed our concern directly to the FBI in writing, and hope that their activities in this regard have ceased. We are still waiting for them to schedule a meeting with representatives of our Association as they suggested in their reply.

Many librarians are reluctant to say no to government agents, or are unaware of their right to deny such information without subpoena. This Association has tried to educate the profession and the public by distributing copies of CPLR 4509 to libraries around the state. We will shortly provide incident report forms to learn easily and perhaps anonymously of instances of activities which run counter to the Confidentiality of Library Borrowing Records Law.

There are recent instances of librarians having left the profession and/or having undergone psychiatric care because of pressures from harrassment over attempts to elicit confidential information. We see the FBI "Library Awareness Program" as a continuing effort to undermine the philosophy of librarians to maintain free access to information for all.

Should the citizens of this nation perceive the library and its staff as a covert agency of the government watching to record who is seeking which bits of information, then the library will cease to be creditable as a democratic resource for free and open inquiry. Once the people of this country begin to fear what they read, view, and make inquiry about may at some future time be used against them or made the object of public knowledge, then this nation will have turned away from the very most basic principle of freedom from tyranny which inspired this union of states.

The FBI might well complain that by going "public" the library community allowed people to become aware of the attempts to introduce the covert surveillance of library user interest. However, even the most naive of individuals knows that such secrecy is transitory. Librarians know that to tolerate such conditions, even temporarily, is to eventually indict the entire library system in the eyes of the citizens of the United States as an instrument of government surveillance and intimidation and to destroy the library's ability to function as an agency where the mind can explore ideas without fear of accountability or intimidation.

Cordially,

Helen F. Flowers

Helen F. Flowers
President

INTELLECTUAL FREEDOM INCIDENT REPORT CARD
NEW YORK LIBRARY ASSOCIATION INTELLECTUAL FREEDOM COMMITTEE

Please use this card to report any intellectual freedom incident in your library, whether or not you need assistance from NYLA.

Date of incident ____________________

Type of library Public ______ School ______ Academic ______ Special ______ Other ______

In which 3Rs Council area is the library located? Capital Dist ___ Central ___ Long Island ___ METRO ___

North Country ______ Rochester ______ South Central ______ Southeastern ______ Western ______

Who made the challenge? Individual ______ Group ______

Material/service challenged: 1. Book ___ a. Fiction ___ b. Non-fiction ___ 2. Periodical/Newspaper ___

3. Library program ______________ 4. Exhibit/display ______________

5. AV material (specify) ______________ 6. Other (describe) ______________

Age level of material/service challenged: Adult ______ Young Adult ______ Children's ______

Was user confidentiality affected? Yes ______ No ______ Don't know ______ If yes, please explain

____

Does the library have a written policy on confidentiality of library records? Yes ___ No ___ Don't know ___

Does the library have a written book selection policy? Yes ______ No ______ Don't know ______

____

Please explain the incident (include title/description of challenged material/service, action taken, extent of local support, etc. Feel free to forward any relevant documents with this card.

____

____

____

____

____

____

Do you wish assistance from NYLA? If so, please check here ______ (and be sure to fill in your name & address or telephone number below). We'll be in touch. You may also contact the Intellectual Freedom Committee c/o the NYLA Office at (212) 227-8032.

Optional information: Library name & address ______________________

Name of contact person: ______________________ Tel. no. (   ) ______________

PLEASE FOLD, SEAL, STAMP, AND MAIL THIS FORM TO ADDRESS PRINTED ON REVERSE. THANK YOU!

STAMP

NEW YORK LIBRARY ASSOCIATION
INTELLECTUAL FREEDOM COMMITTEE
15 PARK ROW, SUITE 434
NEW YORK, NY 10038

OCT 26 1987

OFFICE FOR INTELLECTUAL FREEDOM
AMERICAN LIBRARY ASSOCIATION
50 EAST HURON STREET · CHICAGO ILLINOIS 60611 · (312) 944-6780

October 21, 1987

Senator Don Edwards, Chairman
Subcommittee on Civil & Constitutional Rights
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515-6216

Dear Senator Edwards:

I am writing on behalf of the Intellectual Freedom Committee of the American Library Association to bring the enclosed Advisory Statement on the FBI's "Library Awareness" program to your attention.

Thank you for your efforts in defense of intellectual freedom and for your attention to this program.

Sincerely,

C. James Schmidt

C. James Schmidt, Chair
Intellectual Freedom Committee

CJS:bas
Enclosure

OFFICE FOR INTELLECTUAL FREEDOM
AMERICAN LIBRARY ASSOCIATION
50 EAST HURON STREET · CHICAGO ILLINOIS 60611 · (312) 944-6780

ALA Intellectual Freedom Committee advises librarians on FBI "library awareness" program

The Intellectual Freedom Committee of the American Library Association (ALA) has issued an advisory alerting librarians to the "unwarranted government intrusions upon personal privacy" that threaten "the First Amendment right to receive information" which are the result of an ongoing "library awareness" program undertaken by the Federal Bureau of Investigation.

In a statement released October 1 (attached), the Intellectual Freedom Committee detailed the information it has on the program and the Committee's response to the FBI's approaches to libraries.

Intellectual Freedom Committee Advisory Statement

In June, 1987, the ALA Intellectual Freedom Committee received a copy of a letter from Paula Kaufman, Director of Academic Information Services Group for Columbia University, which recounted the details of a visit to the Math/Science Library at Columbia by two FBI agents who requested information from a clerk about the use of that Library by foreigners. During the course of a conversation with one of the agents, Ms. Kaufman was told the FBI was doing a general "library awareness" program in New York City and that the FBI was asking librarians to be alert to use of their libraries by persons from countries "hostile to the U.S., such as the Soviet Union" and to provide the FBI with information about these activities.

The letter from Ms. Kaufman was discussed extensively by the Intellectual Freedom Committee during the ALA's Annual Conference in San Francisco. One outcome of the discussion was a letter to John Otto, Acting Director of the FBI, requesting information on this program. Milt Ahlerich, Acting Assistant Director, responded to that letter, saying that the Bureau does, indeed, have a program in their New York Office to contact staff members of New York libraries "to alert them to this potential danger"--i.e., the "possibility of members of hostile countries or their agents attempting to gain access to information that could be potentially harmful to our national security"--and to "request assistance."

On September 18, 1987, the New York Times published a story on the front page about the incident at Columbia University and others (copy attached). In response to the New York Times article, an official spokesman for the FBI read Anne Heanue (ALA Washington Office) the following "press response." Note that the statement was read--according to the FBI, it is not available from the Bureau in writing.

"The FBI is responsible for countering the intelligence gathering efforts of hostile foreign intelligence services. The damage being done to our country by such foreign intelligence services is substantial. The FBI's foreign counterintelligence investigative efforts encompass a variety of approaches, all of which are within U.S. Attorney General guidelines and United States laws.

"The FBI has documented instances, for more than a decade, of hostile intelligence officers who have exploited libraries by stealing proprietary, sensitive, and other information and attempting to identify and recruit American and foreign students in American libraries. The FBI therefore, in an effort to thwart this activity is endeavoring, on a limited basis, to educate knowledgeable individuals in specialized libraries to this hostile intelligence threat.

"The FBI has historically depended upon the American public's assistance in carrying out its investigative responsibilities. The FBI has absolutely no interest in interfering with the American public's academic freedoms or First Amendment rights."

Intellectual Freedom Committee Advisory Statment-3

The Intellectual Freedom Committee of the American Library Association vigorously protests, on behalf of the more than forty-five thousand personal and institutional members of the Association, this attempted infringement of the right to receive information protected by the First Amendment to the U.S. Constitution and the further attempted violation of the privacy rights of all library patrons.

Since 1984, the current Administration has been attempting to limit access to information in commercial databases that bears on sensitive government data. Since 1986, this Administration has been attempting to convince electronic publishers to monitor the people using their systems and limit access to the information in those publishers' databases. Also since 1986, the current Administration has been trying to convince academic libraries to do the same--and to disclose users' names and the subject of their searches to the FBI.

In the Bureau's approaches to libraries, the focus has been on the use of publicly available information by foreign national students. The ostensible reasons put forward by the FBI are "counterintelligence" and "anti-terrorism." Libraries are not, however, extensions of the "long arm of the law" or of the gaze of Big Brother. It is our role to make available and provide access to a diversity of information, not to monitor what use a patron makes of publicly available information. The essence of the principle of intellectual freedom is the unhindered right to impart and to receive information of every and whatever sort and to have protected the privacy of the seeking and use of such information.

The American Library Association has had a "Policy on Confidentiality of Library Records" since 1970. This formal policy was adopted at that time in response to attempts by U.S. Treasury agents to examine circulation records in a number of cities. The "Introduction" to the policy reads equally well in the present context:

> ...the efforts of the federal government to convert library circulation records into "suspect lists" constitute an unconscionable and unconstitutional invasion of the right of privacy of library patrons and, if permitted to continue, will do irreparable damage to the educational and social value of the libraries of this country.

Since 1970, thirty-six states have enacted "Confidentiality of Library Records" statutes (list attached). These statutes have been interpreted by the Intellectual Freedom Committee to encompass database search records.

The Bureau has not asked for information on specific individuals known to be engaged in terrorist activities, nor has it offered any information that links database searches to such activities. The Intellectual Freedom Committee believes that agents of the FBI have been sent out on generalized "fishing expeditions."

The U.S. Supreme Court has, on numerous occasions, held unconstitutional such generalized inquiries where they impinge upon the constitutional rights of individuals.

It is well established that foreign nationals residing in the United States enjoy the same First Amendment protections as do citizens of the United States. Just as aliens in this country are equally protected by the First Amendment, they are also protected, as 'persons,' by the Due Process Clause of the Fifth Amendment and the Equal Protection Clause of the Fourteenth Amendment.

Such generalized inquiries into database searches and "library use" also chill the First Amendment freedoms of all library and database users. The right to be free from unwarranted government intrusions upon personal privacy is of particular significance when such state action threatens the First Amendment right to receive information.

What's to be done? The Intellectual Freedom Committee, before it decides on further action, must know the extent of this program. It is essential that librarians check with the circulation clerks and other public services staff at their libraries to determine: a) if the FBI has visited; b) what information was requested; c) whether information was given and, if so, what it was?

It is urgent that librarians check their institution's policies on confidentiality of library records and make clear to public services personnel the procedures for handling requests for such information. These steps are of particular importance in public institutions in states with confidentiality statutes.

In addition, librarians may wish to join Joseph Murphy, Chancellor of City University of New York, in calling for the Senate and House intelligence committees to conduct a "thorough investigation of this apparent violation of academic freedom by the FBI." The Committee encourages librarians to write to their Senators and Representatives, or to Senator Paul Simon (Chair, Senate Subcommittee on the Constitution) and Representative Don Edwards (Chair, House Subcommittee on Civil and Constitutional Rights), concerning this FBI program.

Finally, librarians are urged to contact the Office for Intellectual Freedom with any and all information on this, or similar, approaches by federal agents, and on any institutional actions taken. The Office is collecting the information and coordinating the IFC's response and needs to hear from librarians--by phone or by letter. Please contact Judith F. Krug, Director, or Patrice McDermott, Assistant Director, at the Office for Intellectual Freedom, 50 E. Huron St., Chicago, IL. 60611, (312) 944-6780.

Such infringements of the First Amendment can be effectively combatted only if the information is available--and that information can only come from librarians.

CONFIDENTIALITY STATUTES

List of States

The following states have confidentiality of library records statutes:

1. Alabama
2. Alaska
3. Arizona
4. California
5. Colorado
6. Connecticut
7. Delaware
8. Florida
9. Illinois
10. Indiana
11. Iowa
12. Kansas
13. Louisiana
14. Maine
15. Maryland
16. Massachusetts
17. Michigan
18. Minnesota
19. Missouri
20. Montana
21. Nebraska
22. Nevada
23. New Jersey
24. New York
25. North Carolina
26. North Dakota
27. Oklahoma
28. Oregon
29. Pennsylvania
30. Rhode Island
31. South Carolina
32. South Dakota
33. Virginia
34. Washington
35. Wisconsin
36. Wyoming

"All the News
That's Fit to Print"

The New York Times

NATION
[illegible]

VOL.CXXXVII . . . . No. 47,286 [illegible]

NEW YORK, FRIDAY, SEPTEMBER 18, 1987

Continued on Page [illegible], Column [illegible]

Libraries Are Asked By F.B.I. to Report On Foreign Agents

By ROBERT D. McFADDEN

F.B.I. agents have asked librarians in New York City to watch for and report on library users who might be diplomats of hostile powers recruiting intelligence agents or gathering information potentially harmful to United States security.

The initiative has upset library officials, who fear intrusions into the privacy and academic freedom of library users and object to what they called an effort to turn librarians into Government informers.

The contacts have been under way since last spring as a result of a sensational espionage case in which a Soviet employee of the United Nations, Gennadi F. Zakharov, recruited a Queens College student as an agent through contacts made at a library. Mr. Zakharov was caught and traded for Nicholas Daniloff, an American reporter arrested in Moscow on what were widely regarded as retaliatory spy charges.

Officials of the Federal Bureau of Investigation acknowledged in response to inquiries yesterday that staff members at fewer than 20 libraries, most of them academic rather than public, had been asked to cooperate with agents in a Library Awareness Program that is part of a national counterintelligence effort.

"Hostile intelligence has had some

Continued on Page 22, Column 1

[illegible]

F.B.I. Asks Librarians to Report on Foreign Agents

Continued From Page 1

success working the campuses and libraries, and we're just going around telling people what to be alert for," the deputy assistant director of the New York F.B.I. office, James Fox, said. "All we are interested in is the fact that a hostile diplomat is there. We don't want librarians to become amateur sleuths."

Mr. Fox declined to identify the institutions whose librarians had been approached, saying it would play into the hands of the K.G.B., which, he said, had long sought to recruit agents in libraries and on college campuses, as well as in industry.

"Certainly it's not every library in the city," he said. "We're concentrating the ones it would be logical for hostile intelligence people to use."

He said that just a few agents were working on the contacts and that they did not work full-time at the task.

F.B.I. officials in Washington declined to discuss the scope or other details of the intelligence-gathering effort. Mr. Fox said he did not know whether bureaus of the agency in other cities had made similar contacts. However, he said he believed some had, because it was optional to do so as part of a national counterespionage effort.

It was unclear whether any librarians in New York have agreed to aid the F.B.I. But officials of Columbia University, the New York Public Library and the New York Library Association called the effort an apparent intrusion of the privacy and academic freedom of library users.

They said that the Government should obtain subpoenas if it wanted information. Some library officials expressed outrage at what they saw as an attempt to recruit librarians as informers and an effort to undermine the rights of library users. Some librarians objected to the name Library Awareness Program, a phrase often used to encourage library use.

"I find it amazing that a librarian would be supposed to recognize someone who is a national of a hostile power," said Nancy Lian, executive director of the library association, whose members include 3,000 of the 10,000 librarians in New York State.

"Does anyone with an accent come under suspicion?" Ms. Lian asked. "These things are so far removed from the professional duties of a librarian that I find it almost inconceivable that this whole thing is happening."

She said it would be inappropriate for a librarian to provide confidential information on library users, "unless there is a subpoena, unless there is sufficient information to suggest there is something really worth pursuing."

The director of Academic Information Services at Columbia, Paula Kaufman, brought the F.B.I. contacts to the attention of the library association in a letter in which she said she was approached by two agents last June.

"They explained that they were doing a general 'library awareness' program in the city and that they were asking librarians to be alert to the use of their libraries by persons from countries 'hostile to the United States, such as the Soviet Union' and to provide the F.B.I. with information about these activities," she said in her letter. "I explained that we were not prepared to cooperate with them in any way, described our philosophies and policies respecting privacy, confidentiality and academic freedom, and told them they were not welcome here."

Policy of Confidentiality

Yesterday, Ms. Kaufman said the agents who had approached her had not said diplomats were specific targets in the program. "They told me it was foreigners from countries hostile to the United States," she said. "I wouldn't cooperate no matter who they were interested in."

The public relations director of the New York Public Library, Betsy Pinover, said she was unaware of any efforts by agents to contact staff members of the library. She said it was state law and library policy to respect the confidentiality of users.

"We're extremely concerned about intellectual freedom and the reader's right to privacy, and are committed to protecting the privacy of our readers," Ms. Pinover said.

The president of the library association, Dr. Helen F. Flowers, asked in a letter to John E. Otto, Acting Director of the F.B.I. in Washington, for more information about the program. She noted that the association opposed "the use of intimidation by Government officials as a means of obtaining information about library users."

In response, an acting assistant F.B.I. director, Milt Ahlerich, told Dr. Flowers the program was started to support counterintelligence efforts. He wrote:

"We alert those in certain fields of the possibility of hostile intelligence powers or their agents attempting to gain access to information that could be potentially harmful to our national security. In this regard, our New York office has contacted staff members of New York libraries to alert them to this potential danger and to request assistance."

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS
1012 FOURTEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20005
(202) 737-5900

GOVERNMENT RELATIONS OFFICE
Alfred D. Sumberg, Associate General
Secretary and Director of Government Relations
Sheila Garcia, Assistant Director

Toll-Free Legislative Hotline
1-800-424-2973

June 29, 1988

The Honorable Don Edwards
Chairman, House Judiciary Subcommittee
on Civil and Constitutional Rights
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Edwards:

On June 19, 1988, the delegates to the Seventy-Fourth Annual Meeting of the American Association of University Professors approved the following resolution:

"Freedom of inquiry is at the core of all academic endeavors. The FBI has recently admitted the existence of a Library Awareness Program under which FBI agents solicit information from librarians and others in technical and research libraries on the use of library resources by persons from certain foreign countries. The FBI has sought to learn what materials these persons have borrowed, what computer reference searches they have conducted, and what materials they have photocopied. The Seventy-Fourth Annual Meeting condemns the FBI Library Awareness Program as an assault on the confidentiality of library records and a chill on the scholar's right of free access to libraries."

We would appreciate your bringing this resolution to the attention of the members of the Subcommittee.

Sincerely,

Alfred D. Sumberg
Associate General Secretary

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

[illegible] 25 [illegible]

August 19, 1988

Honorable Don Edwards
U.S. House of Representatives
Washington, DC 20515

Dear Representative Edwards,

I am writing to alert you to a matter which has become a serious concern for me and many other members of the library community. The matter is the "Library Awareness Program" of the Federal Bureau of Investigation, an activity which apparently has been going on for more than ten years. Under this program, the FBI has been approaching academic and public libraries, requesting the assistance of library staff members in conducting surveillance of "suspicious-looking persons" who may be from countries "hostile to the United States." This activity infringes on both the First Amendment and the right to privacy. American libraries are key participants in the preservation of First Amendment rights and in the cultivation of an informed citizenry. Libraries are the only places where evryone can have access to a broad diversity of ideas and information. Just as any individual should have the right to seek and gain access to all publicly available information, that individual should also have the right to confidentiality concerning the search for and use of information.

The FBI has asked librarians and library clerks to look over their users' shoulders, monitoring their paths through the stacks, to the photocopy machine, to online database searches. All of the books and information are unclassified. This activity, in followed through, will have the most chilling effect on the freedom of all of us. In addition, under the laws of 38 states, including Alaska, disclosure of library customer user records, except under a court order or subpoena, is against the law.

The FBI program threatens the role of libraries as an open institution providing unmonitored access to information in a constitutional republic. I know that you will want to guard against this threat.

On July 12, at its annual conference in New Orleans, the American Library Association, which represents more than 45,000 librarians nationwide, adopted a resolution opposing the FBI program. I enclose a photocopy of the resolution for your information.

Sincerely,

Mark C. Goniwiecha
Assistant Professor of Library Science
Rasmuson Library
University of Alaska Fairbanks

C.D. #77.4

Resolution in Opposition to FBI Library Awareness Program

WHEREAS, The Federal Bureau of Investigation Library Awareness Program is of paramount concern to the library community, and

WHEREAS, the attempts by the American Library Association through letters of inquiry, Freedom of Information Act requests, and offers to meet with FBI representatives in order to secure full background information from the FBI concerning the scope of its activities under the FBI Library Awareness Program and similar programs have been mostly in vain, and

WHEREAS, The LIBRARY BILL OF RIGHTS and the American Library Association's Code of Ethics clearly provide that information available to the general public be provided to all on an equal and confidential basis, and

WHEREAS, The American Library Association policy #53.4, Governmental Intimidation, an Interpretation of the Library Bill of Rights states:

> The American Library Association opposes any use of governmental prerogatives which leads to the intimidation of the individual or the citizenry from the exercise of free expression,

THEREFORE BE IT RESOLVED, That the American Library Association go on record in condemnation of the FBI Library Awareness Program and similar programs, and all that they imply in relation to intellectual freedom principles, and

BE IT FURTHER RESOLVED, That the American Library Association call for immediate cessation of the FBI Library Awareness Program and all other related visits by the Bureau to libraries where the intent is to gain information, without a court order, on patrons' use and

BE IT FURTHER RESOLVED, That the American Library Association use all of the resources at its command to oppose the program and all similar attempts to intimidate the library community and/or to interfere with the privacy rights of library users by the FBI, and

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the President of the United States of America, the Senate Judiciary Subcommittee on Technology and the Law, the House Judiciary Subcommittee on Civil and Constitutional Rights, and to the Director of the Federal Bureau of Investigation.

Adopted by the Intellectual Freedom Committee, July 12, 1988

AMERICAN LIBRARY ASSOCIATION
50 EAST HURON STREET · CHICAGO ILLINOIS 60611 · (312) 944-6780

March 30, 1988

Mr. William S. Sessions, Director
Federal Bureau of Investigation
U.S. Department of Justice
Washington, D.C. 20535

Dear Mr. Sessions:

The Federal Bureau of Investigation's "Library Awareness Program" has been, as you are aware, a matter of interest and concern to the American Library Association and, in particular, its Intellectual Freedom Committee. This program has elicited expressions of concern from the Association's individual and institutional members, as well as from various segments of the media across the country. I am writing, therefore, on behalf of the Association's Intellectual Freedom Committee to request that the Bureau provide a briefing for the Committee on this program.

Such a briefing could most conveniently be arranged during the Association's Annual Conference in New Orleans in July, during the Intellectual Freedom Committee's scheduled meeting times (Friday, July 8, 8:00-11:00 a.m. and 2:00-5:00 p.m.; Saturday, July 9, 8:00 a.m.-12:30 p.m.). The Committee is prepared to make available two to three hours in the morning or afternoon of July 8, or in the morning of July 9. The Association would arrange for a room of suitable size to be available.

We have publicly expressed our concerns about this Program, but anticipate that such a meeting would permit both organizations to understand more fully the nature of the program, the concerns of each, and to correct such misunderstandings as may exist.

The Committee will meet as a body with the representative(s) of the Bureau, with as many members participating as are able. The IFC will also bring to such a meeting its legal counsel and an additional person to physically receive--for the purpose of summarizing its contents for the Committee--any information the Bureau might disclose, the receipt of which would compromise the IFC's ability to act in the present or in the future. The Intellectual Freedom Committee's willingness to meet with the FBI in no way is to be construed as constraining any future action the Committee believes important to undertake.

The Association is aware, of course, of the briefing provided by the Bureau to the National Commission on Libraries and Information Science after the Association's Midwinter Meeting in San Antonio. We thus are encouraged to expect that you will extend the same courtesy to the Intellectual Freedom Committee of the American Library Association.

I look forward to your prompt reply.

Sincerely yours,

C. James Schmidt
Chair, Intellectual Freedom Committee
American Library Association

CJS:bas

cc: Intellectual Freedom Committee
bcc: Thomas J. Galvin

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

May 18, 1988

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MAY 24 1988
OFFICE FOR
INTELLECTUAL FREEDOM

Mr. C. James Schmidt
Chair, Intellectual Freedom Committee
American Library Association
50 East Huron Street
Chicago, Illinois 60611

Dear Mr. Schmidt:

I have received your letter of March 30th in which you request that the FBI provide a briefing for your Committee, possibly during the American Library Association's Annual Conference in July, to discuss the FBI's Library Awareness Program.

As you mentioned in your letter, Deputy Assistant Director Thomas E. DuHadway of our Intelligence Division did address a meeting of the National Commission of Libraries and Information Science in January regarding the FBI's interviews of librarians in the New York City area. Representatives of the FBI have also briefed the staff of Representative Don Edwards; the staff of the House Permanent Select Committee on Intelligence; and the Subcommittee on Postsecondary Education of the House Committee on Education and Labor on the FBI effort.

Additionally, I and other FBI officials have explained to the extent possible the reason and purpose for the FBI's limited contacts with specialized libraries in previous correspondence with you and other members of the Intellectual Freedom Committee and have tried to reassure you that we make every effort to ensure that these contacts in no way interfere with the academic freedoms or First Amendment rights of our Nation's citizens. In view of our heavy commitments, it will not be possible to designate an FBI representative to meet with your Committee during July in New Orleans. If you believe such a meeting would be beneficial, however, arrangements could be made for you to meet with Mr. DuHadway here at FBI Headquarters at a mutually agreeable time. If you wish to pursue this avenue, please contact Mr. DuHadway directly at telephone (202) 324-4885.

Mr. C. James Schmidt

I am enclosing, for your added information, a copy of an article from "The Bureau of National Affairs, Inc." regarding Mr. DuHadway's presentation before the National Commission of Libraries and Information Science.

Sincerely yours,

William S. Sessions

William S. Sessions
Director

Enclosure

Government Operations

FBI OFFICIAL DEFENDS CONTACTING LIBRARIES TO COUNTER FOREIGN INTELLIGENCE EFFORTS

The Federal Bureau of Investigation has enlisted the help of professional librarians in its counter-intelligence efforts and its controversial "library awareness" program is more extensive and more successful than previously disclosed, a top FBI official recently told a closed meeting of the National Commission on Libraries and Information Science.

In the transcript provided to BNA under the Freedom of Information Act, the FBI lays out more fully than ever before the bureau's rationale for its controversial visits to libraries. Some portions of the transcript were inked-out during FBI and commission review of the 80-page transcript.

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Thomas DuHadway, deputy assistant director of the FBI's intelligence division, revealed that agents have visited more than 25 libraries, substantially more than the half-a-dozen visits verified by the American Library Association.

DuHadway indicated for the first time publicly that foreign agents have recruited professional librarians, although he provided no numbers or details. Also disclosed is that the FBI has obtained co-operation from some librarians in identifying possible foreign agents.

"We're not searching for lists of library users," stressed DuHadway, "we're looking for the anomaly that takes place in a library that raises the antenna of that professional person who thinks something is wrong." The FBI is mostly concerned that foreign agents hang around libraries to recruit other agents, he stressed.

In his lengthy defense of the FBI awareness program, DuHadway repeatedly denied any intention of interfering with First Amendment rights. "We're not trying to make librarians spies," he stated.

Since the existence of the library awareness program was disclosed last September, the FBI has conducted private meetings on Capitol Hill and elsewhere to justify the program. But as the transcript makes clear, the FBI would prefer to avoid publicized confrontation with such groups as the American Library Association, the leading critic of the FBI program.

The National Commission on Libraries and Information Science is a presidentially-appointed body of 14 members which advises the president and Congress on matters pertaining to libraries and information. The FBI official briefed the commission Jan. 14 in San Antonio, Texas.

Chairman Jerald C. Newman, who emerges in the transcript as a defender of the FBI program, emphasized during discussion that he believes the ALA and librarians have exaggerated the FBI's program.

The ALA's Intellectual Freedom Committee in October issued an advisory alerting librarians to the "unwarranted government intrusions upon personal privacy," that threaten "the First Amendment right to receive information."

FBI Presentation

DuHadway drew on the case of Gennady Zakharov, the Soviet physicist employed by the United Nations in 1986, as an example of how foreign agents focus their recruitment efforts on persons who use libraries. Zakharov paid for research by a Ghanian student, who later became a double agent for the U.S.

"We've had Soviets tell us that they think it's better to recruit two librarians in a science and technology library than it would be to recruit three engineers who could put together a system, because those librarians have access to people, places and things that can front for the Soviet that the engineer can't," recounted DuHadway.

"They think it's extremely important to have sources in libraries and to be in libraries so they can associate with students and professors that they get a chance to recruit," he said.

DuHadway continued, "And the reason I keep emphasizing this is that we are not there because we think they shouldn't have legitimate access to unclassified information." Rather, he explained, the FBI wants help in identifying foreign intelligence agents.

At that point commissioner George Nash inquired, "Are there cases of their having recruited professional librarians?" DuHadway replied only, "Yes."

Commissioner Bessie Moore followed up, "Did the professional librarians know they were being recruited?" DuHadway replied, "Some yes, some no."

Commissioner Margaret Phelan asked, "Did they come to the FBI to tell them they had been recruited?"

DuHadway told her: "Yes. Some have, some haven't. When I go back to the student I described for you in the Zakharov case, he didn't have any idea he was being recruited when he started either." DuHadway said libraries have been used as recruiting grounds since the 1960s, especially in New York.

Besides recruiting in libraries, DuHadway said, foreign agents use library research to train agents in "a very tried and true and proven technique" of asking recruits to copy things, then steal things, all in "a very slow progression" involving monetary rewards.

According to DuHadway "So you get the Pavlov's dog thing—reaction, money, reaction, money, and then you move him along and then you move him along and you say, 'Well, I really need more information—could you get something that's restricted maybe, but not classified.' And then you work him up to classified information."

What Librarians Can Do

In explaining what assistance librarians can give the FBI, DuHadway said, "If someone were to tell us that Thomas DuHadway, alias Ivan Ivanovich, is in the library and looking strange and is called to the FBI, and we would say, no, he's a legitimate diplomat, he's fine, there's no problem. We would tell you that. But we would also like to know what was strange about him, what he was doing there."

More specifically, DuHadway suggested that suspicious signs would include "someone routinely systematically copying microfiche, or stealing things."

Another commissioner, Daniel W. Casey, asked DuHadway about the possibilities of misidentification by a librarian and of libel for false arrest. "No, there's no arrest," answered DuHadway.

"Well, what's the use of finding these Russians if you're not going to [do] anything to them?," Casey asked.

DuHadway said diplomatic immunity likely would interfere with arrests. "But we can find out what he's doing, what he's trying to seek, who else he's operating, does he have other sources."

Casey also asked DuHadway's opinion about laws in 36 states protecting the confidentiality of circulation records.

DuHadway said there was nothing wrong with the confidentiality of lists, stating that the FBI is "not interested" in seeing such lists.

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In a further exchange between Casey and DuHadway, the FBI official said the bureau would like a general physical description of the suspicious person.

Librarians Positive

DuHadway said the reaction from librarians contacted by the FBI has been "very favorable, fine," with "one exemption." He was referring to an unnamed librarian at Columbia University, New York, "who thought this was atrocious and said she would not cooperate."

Newman commented later, "My daughter is a graduate of Barnard, which is part of Columbia University, and you know, again, it just so happens that the person who blew the whistle was the principal Vietnam, antiwar person on campus. So let's understand it wasn't done in a a vacuum, it's just, maybe the FBI didn't do their homework and know who they were asking."

Librarians' Objections

Articulating the librarians' objections to the program was commissioner Elinor Hashim, who has has since left the commission. Noting that she is a member of the ALA governing council, Hashim explained that "most librarians take it as a very serious commitment to never reveal the identity of library users, to never deny access to anyone who comes in..." She said librarians believe the FBI does want to know who is using library collections. The tension between helping the FBI and protecting the principles of public and open access privacy is "a dilemma for the profession," she said.

"I don't know what the answer is," concluded Hashim, to which commissioner Wanda Forbes said, "We could do with a few less librarians who are so naive in these things."

DuHadway agreed with commissioners that the bureau "has PR problems." He said the bureau has told its side of the story to the House and Senate Intelligence committees and other congressmen. He pointed out that the FBI has written a letter to the FBI explaining the program, adding, "We don't have a battle with the ALA."

"We think we have a very legitimate approach. We emphasize to them we're not interested in the identities of library users. We don't want you to be a spy. You're not trained as a spy. If, in the legitimate course of your business, you see something you think we ought to know about, please tell us."

Further Publicity

DuHadway indicated a disinclination to spread his message too widely. "We tend to lose somewhat, too, if we get out in a big public situation with the ALA and an intellectual debate; which we wouldn't run from. We expose everything we're trying to do to our own detriment whether we solve the problem or not. So there are some factors to be considered along those lines that we tend to throw the baby out with the bath water so to speak."

Newman added, "If they go out and broadcast what they're doing, the Russians will just change their methods, and I think that's important to note." Several commissioners suggested that the FBI visit top university officials before dropping in at university libraries.

Overall, Newman said, "I don't see absolutely anything wrong with what they've done." He criticized the ALA Intellectual Freedom Committee for having "made it look like the FBI is going after every library and they are coercing them into reporting on whoever comes in and borrows books." Almost one whole page of Newman comments is inked-out in the released transcript, appearing from the surrounding context to involve the FBI relations with the ALA. Later on, Newman said that for the FBI to address an ALA meeting "just gives them more ammunition."

Program Status

Duhadway told the commissioners that the awareness program is aimed at academic, specialized libraries, and indicated that the FBI is not planning to expand the program. "We are where we want to be," DuHadway stated, adding without explanation, "We've contacted most all of them. But there are occasions where we have to go back now and contact librarians."

However, he said, "We have a specialized problem in New York, Washington, D.C., and maybe San Francisco with the Soviets. Very, very limited, small approach, very closely held."

A short inked-out answer appears to identify other nationalities the FBI is watching.

Private Sector Visit

The FBI has made one recent visit to a private sector company with a similar message as that being given to the libraries.

BNA has learned that in December an FBI agent visited a Washington, D.C., research company, Charles E. Simon Co., with the same warning about foreign agents and a request for assistance. The FBI declined to confirm the visit to the company that primarily retrieves documents about corporations from the Securities and Exchange Commission.

The agent explained that the bureau is trying to monitor the activities of eastern bloc countries in obtaining information from the U.S. government, particularly from the National Technical Information Service, according to a company official who told BNA. "I told him we don't get any requests of that type, so I felt comfortable in saying it didn't really apply to us."

"It was fairly low key," she said. "He wasn't being pushy or forward or anything." He didn't ask to see the list of clients, but did inquire if Simon has contact with "anyone we thought might fit in that category," meaning persons seemingly from the eastern bloc.

"I don't have any problem with that," the official commented. She explained, "It is the role of the bureau as they have designed it to monitor the information-gathering activities of that group, and if that is what they are trying to do I have no problem."

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"Most companies, if they are patriotic—as long as the FBI is acting in the legal limits—would be more than helpful," according to the FBI spokesman.

Inquiries by the Information Industry Association and calls by BNA to other Washington area research companies were unable to locate any other similar FBI visits.☐

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AMERICAN LIBRARY ASSOCIATION
[illegible]

June 6, 1988

JUN 9 1988

Mr. William S. Sessions
Director
Federal Bureau of Investigation
Washington, D.C. 20535

Dear Mr. Sessions:

I have received your letter of May 18, 1988.

On behalf of the more than 45,000 members of the American Library Association, I convey our disappointment that the Bureau is unwilling to provide the briefing requested in my letter of March 30, 1988. Inasmuch as the Bureau has not previously offered to meet with the Intellectual Freedom Committee nor otherwise discussed your Library Awareness Program with us, we note with regret the passing of an opportunity to exchange information and points of view.

The Committee will report to the membership of ALA in July in New Orleans our best current information on the Bureau's position and activities. We will, of course, continue to monitor and report on visits to libraries by agents of the Bureau. If this program is still active, it will be on the Intellectual Freedom Committee's agenda when we meet in early January, 1989, in Washington, D.C.

Sincerely,

C. James Schmidt
Chair
Intellectual Freedom Committee

CJS/jj
cc: Don Edwards ✓
    Patrick Leahy
    David L. Boren
    Louis Stokes
    ALA Executive Board
    ALA Intellectual Freedom Committee

AMERICAN LIBRARY ASSOCIATION
50 EAST HURON STREET · CHICAGO, ILLINOIS 60611 · (312) 944-6780

September 21, 1988

Mr. James Geer
Assistant Director
Intelligence Division
Federal Bureau of Investigation
Washington, D.C. 20535

Dear Mr. Geer:

The meeting on September 2 of you, your colleagues, myself, other members of the Intellectual Freedom Committee, our staff and counsel was useful for the Bureau and the American Library Association. At a minimum, both organizations can report that such a meeting occurred. I want to thank you for the meeting and to follow up on some items which seem to offer the prospect of mutual benefit.

First, your point that your visits under the Library Awareness Program might better have proceeded from the top down, i.e., begun with a library's management - I would like to confirm this intent with you and having done so, I plan to communicate this to the library community in my summary report of the meeting.

Second, I would like to follow up on the idea of exchanging written material for dissemination to our respective communities. We would be willing to provide you with a piece for national distribution to your agents, setting forth the role of libraries and the ethical and legal responsibilities of librarians and other library staff. In return, we could arrange distribution to the library community of a suitable statement you and your colleagues might prepare.

Third, I recall that you appeared to recognize that library staff might, in view of the ethical and legal context in which they work, legitimately decline to respond to questions from agents which the staff determine to violate ethical, legal or policy guidelines. If my recollection is correct, we would like to relieve our colleagues of any unease they might feel upon so declining. Do I correctly represent your intentions?

You will receive a transcript of the tape made of the meeting and, if you would like one, a copy of the tape.

I conclude by observing that while I wished for a broad agreement as a result of getting together, I did not realistically expect one, given the differences in principle which exist.

Sincerely,

C. James Schmidt
Chairperson
Intellectual Freedom Committee

CJS/jj

Association of Research Libraries
1527 New Hampshire Avenue, N.W., Washington, D.C. 20036 (202) 232-2466

DUANE E. WEBSTER
Executive Director

June 29, 1988

The Honorable William S. Sessions, Director
Federal Bureau of Investigations
7176 J. Edgar Hoover Building
9th Street and Pennsylvania Ave., N.W.
Washington, D.C 20535

Dear Director Sessions:

This letter concerns FBI counter-intelligence activities in libraries. The members of the Association of Research Libraries (ARL), 118 major research libraries, oppose the FBI's Library Awareness Program and any other FBI efforts that intrude on the privacy of library users. As you know from publicity and from recent library community testimony before Congress, this is an issue of major importance to librarians and one that elicits a strong defense of deeply held professional values. It is therefore not an issue that the library community will leave unresolved.

At this point it is clear that public statements of the FBI and the information supplied by librarians who have been visited by FBI agents are contradictory. Broad, open-ended 'fishing expedition' questions have been received in libraries across the country — they have not been restricted to the New York area. Reading lists of library patrons with foreign sounding names do appear to be a matter of concern to the Bureau. Library staff have been recruited to monitor use of unclassified and unrestricted information. Obviously, this does not match with statements made by yourself and included in Assistant Director James Geer's June 20 statement to the House Subcommittee on Civil and Constitutional Rights.

ARL libraries in no way wish to obstruct legitimate investigations undertaken by the Bureau. What we insist upon, however, is that agents of the Bureau follow established procedures to secure information from the library. Involvement by officers of the courts who, unlike library staff, may examine Bureau evidence supporting a particular investigation is essential. Asking librarians to let agents bypass this critical step is unethical by our standards, illegal in many states, and unjustifed by any information released by the FBI.

With due respect for the awesome responsibilities of the Bureau we make the following requests of you:

1. We urge that you publicly disavow and provide to the Congress assurances that you will stop any FBI programs or initiatives that allow an FBI agent to ask broadly based, opened-ended questions of library staff about the use or users of libraries.

2. We urge that you describe publicly your expectations of the proper procedure for FBI agents to follow when pursuing a specific investigative lead into a library, including securing a proper court order.

3. We urge that you make information available to the library community that explains the steps a library or university might take to file a complaint about an FBI agent who, in the opinion of the library administrator, has behaved outside the scope or spirit of the Bureau's authority in libraries as you have publicly described it.

ARL is anxious to seek a resolution of this controversy. It is not in anyone's best interests — users, librarians, the FBI, or Congress — for this debate about the FBI program intention, scope, and methods to continue. And the controversy will continue lacking a public statement from you such as we have described above or a Congressional prohibition.

We believe that recent FBI initiatives in libraries reflect an insensitivity to citizen rights to privacy and the principle of intellectual and academic freedom upon which our society is founded and has flourished. This government intrusion into the lives of American citizens must be stopped. We hope you will give our requests your serious and prompt attention. We look forward to hearing your response.

Sincerely,

Duane Webster

Duane E. Webster
Executive Director

11591

bcc: Jim Dempsey

U.S. Department of Justice

Federal Bureau of Investigation

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Washington, D.C. 20535

September 20, 1988

Mr. Duane E. Webster
Executive Director
Association of Research Libraries
1527 New Hampshire Avenue, N.W.
Washington, D. C. 20036

Dear Mr. Webster:

Director Sessions has received your letter of June 29th and asked me to respond. Thank you for advising us of the position you and the other members of the Association of Research Libraries have taken with regard to the FBI's Library Awareness Program. Rather than detail its history or set forth in detail its importance to the Bureau's foreign counterintelligence work, I thought I would instead describe for you the direction Director Sessions has decided this program should take.

(1) When deemed necessary, the FBI will continue to contact certain scientific and technical libraries (including university and public libraries) in the New York City area concerning hostile intelligence service activities at libraries. The purpose of such contacts will be twofold: to inform these libraries that hostile intelligence services attempt to use libraries for intelligence gathering activities that may be harmful to the United States, and to enlist their support, along the lines discussed below, in helping the FBI identify those activities. Where feasible, the Library Awareness Program will not focus on public and university libraries.

(2) The librarians at these scientific and technical libraries will be asked to advise the FBI of any contacts their personnel have with persons who identify themselves as Soviet or Soviet-bloc nationals assigned to certain Soviet or Soviet-bloc establishments in the United States and who do any of the following:

(a) seek assistance in conducting library research;

Bicentennial of the United States Constitution (1787-1987)

(b) request referrals to students or faculty who might be willing to assist in research projects;

(c) remove materials from libraries without permission; or

(d) seek certain biographical or personality assessment information from librarians themselves and/or on individuals who are known to the librarian being queried, particularly on students and academicians.

This information will also be sought on contacts with individuals who indicate that they are acting for such Soviet or Soviet-bloc nationals. These criteria are narrow, and in my opinion they will not require judgments [illegible] librarians as to who is of interest and who is not of interest to the FBI. More importantly, they should make it clear that the FBI is completely uninterested in the library activities of anyone other than those persons who meet these specific criteria.

(3) If and when individuals meeting these criteria are identified to the FBI, we will inquire further as to what these individuals are seeking from librarians. The FBI is charged with keeping track of hostile intelligence service activities in the United States, and I believe it is essential that we make these inquiries.

(4) In conducting this program, the FBI will not attempt to circumvent local library management in contacts with librarians; ask for information about people with foreign sounding names or accents; ask for reports on "suspicious" or "anomalous" behavior; or ask for circulation lists or other records of what the public chooses to read.

(5) We intend to ask librarians for help along the lines set forth above. If they do not wish to help, that is up to them, but we are confident that they will help if the program is explained to them properly. To that end, training of FBI personnel participating in the program will be enhanced, where necessary, so that personnel will be particularly sensitive to the limitations that I have described in the above paragraphs.

Thus, we anticipate that the Library Awareness Program will help the FBI identify hostile intelligence service officers without causing the Bureau to collect library information on the general public.

In many cases the FBI will have already identified known or suspected hostile intelligence service officers and co-optees. When the FBI needs information about the activities of such persons, it will continue to contact anyone having that information, including librarians. Such contacts will be nationwide, and such contacts will be no different from any other FBI investigation. These contacts will, however, differ from Library Awareness Program contacts in one significant respect. In the Library Awareness Program, the FBI will be asking librarians to help in the initial identification process using the criteria set forth above. In any other contacts with libraries, the information sought will concern specified subjects.

I hope that the foregoing addresses your concerns about the Library Awareness Program.

Sincerely yours,

James H. Geer

James H. Geer
Assistant Director in Charge
Intelligence Division

1 - Honorable Louis Stokes
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D. C. 20515

THE
UNIVERSITY
OF UTAH

UNIVERSITY
LIBRARIES

MARRIOTT LIBRARY
SALT LAKE CITY, UTAH 84112

June 24, 1988

Ms. Judy Krug
Office for Intellectual Freedom
American Library Association
50 East Huron Street
Chicago, Illinois 60611

Dear Judy:

In an effort to clarify the FBI inquiry at the Marriott Library, University of Utah, I provide the following information. Hopefully, this will help clear up some misinformation presented in the June 25, 1988, issue of The Nation, also.

First, the incident. On Monday, May 2, a local FBI agent contacted a Marriott Library staff member requesting an appointment to question her regarding a certain individual's contact with the Marriott Library. The appointment was set for May 4. On May 4, several staff members met with the FBI agent. He asked for information regarding the nature of the contact of a certain individual they believed had contact with the Library. Nobody could recall contact from such a person so no information was provided. After the agent left, the staff involved discussed the visit and the name of the individual presented by the FBI agent. During this discussion, a staff member did recall receiving a letter from someone in Virginia inquiring about our NTIS service/collections. The response given to that letter was referral to the NTIS headquarter's offices in Springfield, Virginia. This response was simply penciled on the bottom of the original letter and returned to the individual. Our library did not even make a copy of the letter. Our staff member put her name on the return address of the envelope.

In an effort to clear the air, our staff member who responded to the letter contacted the FBI agent and related the incident stated above.

Signed as follows:

Sincerely,

Roger K. Hanson
Director of Libraries

100TH CONGRESS
2D SESSION

H. R. 4947

To amend title 18, United States Code, to preserve personal privacy of individuals with respect to certain library use and use of services involving the rental or purchase of video tapes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1988

Mr. KASTENMEIER (for himself and Mr. MCCANDLESS) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, to preserve personal privacy of individuals with respect to certain library use and use of services involving the rental or purchase of video tapes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Video and Library Privacy Protection Act of 1988".

SEC. 2. CHAPTER 121 AMENDMENT.

(a) IN GENERAL.—Chapter 121 of title 18, United States Code, is amended—

(1) by redesignating section 2710 as section 2711; and

(2) by inserting after section 2709 the following:

"§ 2710. Wrongful disclosure of information relating to library use or video tape rental or sale

"(a) PROHIBITIONS.—Except as provided in subsection (b), it shall be unlawful for a video service provider or library knowingly—

"(1) to disclose to any other person or entity any personally identifiable information about any user of covered services; or

"(2) to retain in a record any such information more than one year after—

"(A) that information is no longer necessary for the purposes for which it was collected; and

"(B) there are no pending requests or court orders for disclosure under this section.

"(b) EXCEPTIONS.—It is not a violation of subsection (a) of this section to disclose information about an individual—

"(1) to that individual;

"(2) with that individual's consent under the circumstances described in subsection (c) of this section;

"(3) to a law enforcement agency pursuant to an order under subsection (d) of this section; or

"(4) when necessary for a legitimate business purpose.

For the purposes of this subsection, engaging in the conduct prohibited by subsection (a) is not in itself a legitimate business purpose.

"(c) REQUIREMENTS FOR CONSENT EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the consent required for the exception under subsection (b)(2) is the prior written consent of the user—

"(A) specifying what information will be disclosed and who the specific recipient of that disclosure will be; and

"(B) given under the circumstances in which the user understands that the user may prohibit that disclosure without being refused services or suffering other discrimination.

"(2) ALTERNATIVE CONSENT.—In the case of a disclosure limited to the name and address of the user, that does not, directly or indirectly, reveal the category of service, or the title, description, or subject matter of service used, it is also sufficient consent for the purposes of the exception under subsection (b)(2) that—

"(A) the provider has given the user an opportunity to prohibit such disclosure;

"(B) such opportunity is given—

"(i) in a writing which clearly and conspicuously specifies what information will be disclosed; and

"(ii) under the circumstances described in paragraph (1)(B); and

"(C) the user may exercise that opportunity by making an appropriate mark on such writing.

"(d) REQUIREMENTS FOR COURT ORDER FOR LAW ENFORCEMENT EXCEPTION.—

"(1) IN GENERAL.—A court may order disclosure of personally identifiable information about a user of covered services to a Federal law enforcement agency or a State law enforcement agency authorized by State statute to seek such disclosure, if—

"(A) the user is given notice and afforded an opportunity to appear and contest such order; and

"(B) the law enforcement agency makes the showing described in paragraph (2).

"(2) WHAT THE AGENCY MUST SHOW.—In a court proceeding to issue an order under this subsection the law enforcement agency must show—

"(A) by clear and convincing evidence that the user has engaged in criminal activity;

"(B) that the information sought would be highly probative in a criminal proceeding relating to that activity;

"(C) that other specifically named and less intrusive investigative procedures have been tried and failed, and the particular details of that attempt and failure, or why the peculiar circumstances of this case make it reasonably appear that other less intrusive investigative procedures are unlikely to succeed if tried or are too dangerous to try; and

"(D) why, in the particular and individual circumstances of this case, the value of the information sought outweighs the competing privacy interests.

"(e) CIVIL REMEDY.—Any person or entity (including a governmental entity) that violates subsection (a) shall be liable to any person aggrieved by that violation for—

"(1) such equitable and declaratory relief as may be appropriate;

"(2) actual damages, but not less than the liquidated amount of $2,500;

"(3) punitive damages in appropriate cases; and

"(4) reasonable attorneys' fees and other litigation expenses reasonably incurred.

"(f) DEFINITIONS OF COVERED ENTITIES AND SERVICES.—For purposes of this section—

"(1) the term 'video service provider or library' means—

"(A) any publicly owned library open to the general public;

"(B) any library in a primary, secondary, or post secondary education institution—

"(i) that is a public institution; or

"(ii) any part of which receives Federal financial assistance;

"(C) any person or other entity engaging in a business that includes the renting or selling of prerecorded video tapes or similar audiovisual materials that—

"(i) operates in or affects interstate or foreign commerce; or

"(ii) is supplied with video tapes to rent or sell through distributors that operate in interstate or foreign commerce;

"(D) any person or other entity to whom a disclosure is made under subsection (b)(4), but only with respect to the information contained in that disclosure; or

"(E) any person acting as an agent of an entity described in subparagraphs (A) through (D), but only with respect to information obtained from such entity; and

"(2) the term 'covered services' means—

"(A) with respect to a library, all the services of the library; and

"(B) with respect to a provider of prerecorded video tapes or similar audiovisual materials, those services involving or incident to providing such tapes or materials.

"(g) PREEMPTION.—The section preempts only those provisions of State or local law that require disclosure which this section prohibits.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended—

(1) in the item relating to section 2710, by striking out "2710" and inserting "2711" in lieu thereof; and

(2) by inserting after the item relating to section 2709 the following new item:

"2710. Wrongful disclosure of information relating to library use or video tape rental or sale.".

100TH CONGRESS
2D SESSION

S. 2361

To amend title 18, United States Code, to preserve personal privacy with respect to the rental, purchase, or delivery of video tapes or similar audio visual materials and the use of library materials or services.

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MAY 9), 1988

Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. SIMON, and Mr. SIMPSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, to preserve personal privacy with respect to the rental, purchase, or delivery of video tapes or similar audio visual materials and the use of library materials or services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Video and Library Privacy Protection Act of 1988".

SEC. 2. CHAPTER 121 AMENDMENT.

(a) IN GENERAL.—Chapter 121 of title 18, United States Code, is amended—

(1) by redesignating section 2710 as section 2711; and

(2) by inserting after section 2709 the following:

"§ 2710. Wrongful disclosure of video tape rental or sale records and library records

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'patron' means any individual who requests or receives—

"(A) services within a library; or

"(B) books or other materials on loan from a library;

"(2) the term 'consumer' means any renter, purchaser, or subscriber of goods or services from a video tape service provider;

"(3) the term 'library' means an institution which operates as a public library or serves as a library for any university, school, or college;

"(4) the term 'ordinary course of business' means only debt collection activities and the transfer of ownership;

"(5) the term 'personally identifiable information' includes information which identifies a person as having requested or obtained specific materials or services from a video tape service provider or library; and

"(6) the term 'video tape service provider' means any person, engaged in the business of rental, sale, or delivery of pre-recorded video cassette tapes or similar audio visual materials.

"(b) VIDEO TAPE RENTAL AND SALE RECORDS.—(1) A video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider shall be liable to the aggrieved person for the relief provided in subsection (d).

"(2) A video tape service provider may disclose personally identifiable information concerning any consumer—

"(A) to the consumer;

"(B) to any person with the informed, written consent of the consumer given at the time the disclosure is sought;

"(C) to a law enforcement agency pursuant to a court order authorizing such disclosure if—

"(i) the consumer is given reasonable notice, by the law enforcement agency, of the court proceeding relevant to the issuance of the court order and is afforded the opportunity to appear and contest the claim of the law enforcement agency; and

"(ii) such law enforcement agency offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and the information sought is highly probative and material to the case;

"(D) to any person if the disclosure is solely of the names and addresses of consumers and if—

"(i) the video tape service provider has provided the consumer with the opportunity, in a writing separate from any rental, sales, or subscription agreement, to prohibit such disclosure; and

"(ii) the disclosure does not reveal, directly or indirectly, the title, description, or subject matter of any video tapes or other audio visual material;

"(E) to any person if the disclosure is incident to the ordinary course of business of the video tape service provider; or

"(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

"(i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and "(ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

If an order is granted pursuant to subparagraph (C) or (F), the court shall impose appropriate safeguards against unauthorized disclosure.

"(c) LIBRARY RECORDS.—(1) Any library which knowingly discloses, to any person, personally identifiable information concerning any patron of such institution shall be liable to the aggrieved person for the relief provided in subsection (d).

"(2) A library may disclose personally identifiable information concerning any patron—

"(A) to the patron;

"(B) to any person with the informed written consent of the patron given at the time the disclosure is sought;

"(C) to a law enforcement agency pursuant to a court order authorizing such disclosure if—

"(i) the patron is given reasonable notice, by the law enforcement agency, of the court proceeding relevant to the issuance of the court order and is afforded the opportunity to appear and contest the claim of the law enforcement agency; and "(ii) such law enforcement agency offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought is highly probative and material to the case;

"(D) to any person if the disclosure is solely of the names and addresses of patrons and if—

"(i) the library has provided the patron with a written statement which affords the patron the opportunity to prohibit such disclosure; and

"(ii) the disclosure does not reveal, directly or indirectly, the title, description, or subject matter of any library materials borrowed or services utilized by the patron;

"(E) to any authorized person if the disclosure is necessary for the retrieval of overdue library materials or the recoupment of compensation for damaged or lost library materials; or

"(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

"(i) the patron is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and

"(ii) the patron is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

If an order is granted pursuant to subparagraph (C) or (F), the court shall impose appropriate safeguards against unauthorized disclosure.

"(d) CIVIL ACTION.—(1) Any person aggrieved by any act of a person in violation of this section may bring a civil action in a United States district court.

"(2) The court may award—

"(A) actual damages but not less than liquidated damages in an amount of $2,500;

"(B) punitive damages;

"(C) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(D) such other preliminary and equitable relief as the court determines to be appropriate.

"(3) No action may be brought under this subsection unless such action is begun within 2 years from the date of the act complained of or the date of discovery.

"(4) No liability shall result from lawful disclosure permitted by this section.

"(e) Personally identifiable information obtained in any manner other than as provided in this section shall not be received in evidence in any trial, hearing, arbitration, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision of a State.

"(f) DESTRUCTION OF OLD RECORDS.—A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsections (b)(2) or (c)(2) or pursuant to a court order.

"(g) SELECTION OF A FORUM.—Nothing in this section shall limit rights of consumers or patrons otherwise provided under State or local law. A Federal court shall, in accordance with section 1738 of title 28, United States Code, give preclusive effect to the decision of any State or local court or agency in an action brought by a consumer or patron under a State or local law similar to this section. A decision of a Federal court under this section shall preclude any action under a State or local law similar to this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended—

(1) in the item relating to section 2710, by striking out "2710" and inserting "2711" in lieu thereof; and

(2) by inserting after the item relating to section 2709 the following new item:

"2710. Wrongful disclosure of video tape rental or sale records and library records.".

Jim

AMERICAN LIBRARY ASSOCIATION
[illegible] (312) 944-6780

September 23, 1988

The Honorable Don Edwards
2307 Rayburn House Office Building
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Edwards:

On behalf of the American Library Association, I am writing to express our strong support for the Video and Library Privacy Protection Act of 1988, HR 4947, legislation that would create a federal right to privacy in personally identifiable library use records and video rental or sale records.

Thirty-eight states, plus the District of Columbia, have passed laws protecting the confidentiality of library use records. In addition, since 1970, the ALA and its more than 45,000 member librarians, library trustees, and libraries have had a policy: a) that library circulation records are confidential in nature; and b) that such records should not be made available to any other party except pursuant to a court order issued by a judicial authority.

The ALA opposes any amendment to the proposed legislation which would create a "national security letter" disclosure process. Particularly in view of the Federal Bureau of Investigation's repeated testimony before House and Senate committees that the Bureau is not interested in library records, and has never requested or received library records, we fail to see any justification for creating a special disclosure process to provide access to library records for the FBI or other law enforcement agencies.

Further, the adoption of any amendment to HR 4947 to create a "national security letter" disclosure process may authorize a part of the FBI Library Awareness Program, or similar activities. Both the House and Senate recently have held hearings on these activities. Creating a "national security letter" disclosure process at this time appears to ALA to grant tacit approval to the Bureau program(s). ALA believes that taking action which appears to endorse the very activities now under congressional scrutiny naturally undermines the integrity of the investigations, and may defeat their purpose outright.

A court order, obtained upon good cause shown to the appropriate judicial authority, is the proper vehicle for obtaining library records.

We believe the court order standard in HR 4947 is the only justifiable standard to require production of such records, and it will not impede legitimate law enforcement interests. Furthermore, this process protects librarians with a uniform standard to be applied when librarians are faced with one of the most crucial dilemmas of their profession, a choice between maintaining their professional ethics, or acceding to requests by law enforcement authorities.

Again, we strongly support the single court order standard now in the bill, and we urge the Committee on the Judiciary to defeat any amendment relating to a "national security letter" disclosure process.

Thank you for your consideration.

Sincerely,

Judith F. Krug

Judith F. Krug
Director
Office for Intellectual Freedom

JFK:tj

SLA Special Libraries Association
Special Libraries
Association

1700 Eighteenth Street, N.W.
Washington, D.C. 20009
202/234-4700

September 26, 1988

The Honorable Don Edwards
Chairman
House Judiciary Subcommittee on Civil
 and Constitutional Rights
Washington, D.C. 20515

Dear Chairman Edwards:

On behalf of the Special Libraries Association, I want to express our support for the confidentiality of library records maintained by public institutions. In this regard, we are pleased that the House Judiciary Committee will be considering legislation which embodies this principle, H.R. 4947, the Video and Library Privacy Protection Act of 1988.

As the bill now stands, library records could only be obtained with the approval of the individual involved or by a court order. We are chagrined to learn that the Federal Bureau of Investigation is attempting to get a "national security letter" exemption. This would enable the FBI to get confidential library records without judicial review or notification of the subject in question.

In our opinion, this circumvents the intent of the legislation and enables the FBI to obtain library records without showing cause. The Association opposes the activities of the FBI's Library Awareness Program and views this national security exemption as a way for this agency to continue its program, with, in essence, Congressional approval.

As you know, in hearings before your Subcommittee and other Congressional Committees, the FBI has stated that it is not interested in obtaining library records. We would question, therefore, why the agency deems it necessary to seek an exemption in this legislation.

We urge you, as a member of the House Judiciary Committee, to oppose any national security exemption for any federal agency including the FBI during consideration of the Video and Library Privacy Protection Act of 1988.

Sincerely,

David R. Bender

David R. Bender, Ph.D.
Executive Director

DRB/lh

Association of Research Libraries
1527 New Hampshire Avenue, N.W., Washington, D.C. 20036 (202) 232-2466

DUANE E. WEBSTER
Executive Director

September 26, 1988

The Honorable Don Edwards
U.S. House of Representatives
2307 Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Congressman Edwards:

This letter is to convey the support of the Association of Research Libraries for the Video and Libraly Privacy Protection Act of 1988, HR 4947. The provisions of the bill are in harmony with the policies of research libraries and such a federal law will strengthen protection for the confidentiality of library records by prohibiting their disclosure except with the person's consent or under court order.

In a related matter, ARL follows the investigation of the FBI Library Awareness Program by the Civil and Constitutional Rights Subcommittee. ARL has formally opposed the Library Awareness Program and we have asked FBI Director Sessions to publicly disavow the program. We await with considerable interest the next steps in the Subcommittee investigation.

We now understand there may be a national security letter exemption in the Video and Library Privacy Protection Act that allows the FBI to gain access to records without court order pursuant to foreign counterintelligence activity. We strongly oppose this provision. We also do not understand the rationale for considering it as part of HR 4947.

It is ARL's position that library records deserve to be protected by a higher standard than this exemption provides. Library records represent First Amendment activities - to receive and exchange information - and should be revealed only after a judicial review determines it is necessary. In addition, the FBI has said publicly that they are not interested in, nor do they seek to see library records. So what is the need for exempting the Bureau from the Video and Library Privacy Protection Act?

A mandatory or permissive national security letter exemption in HR 4947 would in part authorize, or be perceived by library users as authorization, for the Library Awareness Program and other similar activities. Adoption of this exemption would also put an end to the Congressional investigation of the Library Awareness Program. Given the negative publicity and questions that remain unanswered by the FBI about the Library Awareness Program, these are not desirable consequences.

ARL urges that the House address the two issues separately by passing the Video and Library Records Protection Act this session but without a national security letter exemption. This action would strengthen protection for the confidentiality of video and library records and allow the ongoing Congressional investigation in the Library Awareness Program to continue.

Sincerely,

Duane E. Webster
Executive Director

SAA
The Society of American Archivists

Officers

Frank B. Evans, *President*
National Archives and Records Administration

John A. Fleckner, *Vice President*
Smithsonian Institution

Linda Henry, *Treasurer*
National Archives and Records Administration

Council

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Maygene F. Daniels
National Gallery of Art

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Consultant

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Archie Motley
Chicago Historical Society

James M. O'Toole
University of Massachusetts at Boston

Mary Jo Pugh
Consultant

Joan Warnow-Blewett
American Institute of Physics

Donn C. Neal
Executive Director

December 8, 1988

House Judiciary Subcommittee on Civil and Constitutional Rights
United States House of Representatives
Washington, D.C. 20515

To The Subcommittee:

At its Annual Business Meeting on September 30, 1988, the Society of American Archivists passed a resolution in opposition to the FBI's Library Awareness Program. I am enclosing a copy of that resolution.

Sincerely yours,

Donn C. Neal
Executive Director

Resolution in Opposition to FBI Library Awareness Program

WHEREAS, The Society of American Archivists is committed to the principles of free expression and of intellectual freedom, and to the rights of privacy; and

WHEREAS, Violation of any one of these constitutes a threat to the functioning of American democracy and to the principles of the archival profession; and

WHEREAS, The Federal Bureau of Investigation's Library Awareness Program threatens those principles, thereby endangering our democracy; now, therefore be it

RESOLVED, That the Society of American Archivists joins its voice in support of the American Library Association's condemnation of the Federal Bureau of Investigation's Library Awareness Program; and be it further

RESOLVED, That copies of this resolution be forwarded to the President of the United States of America, the presidential nominees of the Democratic and Republican parties, the Senate Judiciary Subcommittee on Technology and the Law, the House Judiciary Subcommittee on Civil and Constitutional Rights, the Director of the Federal Bureau of Investigation, the National Commission on Libraries and Information Science, the Archivist of the United States, the National Coordinating Committee for the Promotion of History, and the American Library Association.

Submitted on behalf of the ALA/SAA Joint Committee on Library-Archives Relations and approved by the Annual Business Meeting of the Society of American Archivists on September 30, 1988.

The American Physical Society
OFFICE OF PUBLIC AFFAIRS

Executive Director
ROBERT L. PARK, Ph.D.
University of Maryland

2000 Florida Avenue, NW
Washington, DC 20009
(202) 232-0189

EXECUTIVE ORDER? EMBARGOED?

What is the basis for the FBI's claim that Soviets are barred by executive order from accessing materials through the National Technical Information Service? A report released by FBI Director Sessions, titled "The KGB and the Library Target," [1] states that:

> The Soviets were embargoed from directly accessing materials through NTIS on January 8, 1980 when former President Jimmy Carter sent a letter to the US Secretary of Commerce captioned "Policy on Technology transfer to the USSR." One of the specific purposes of this executive order was to prevent "the USSR, its entities or agents," from accessing information through NTIS.

The FBI is mistaken. The Carter memorandum [2], which is not a numbered Executive Order, does not even mention NTIS. It directed the Secretary of Commerce to suspend all validated export licenses to the Soviet Union for goods or technical data "...pending prompt review of whether these licenses should be indefinitely suspended or revoked in light of the changed national security circumstances" resulting from Soviet intervention in Afghanistan. Since NTIS technical information is openly published material, it qualified for a general export license, which required no special review by the Office of Export Administration.

Nevertheless, on January 25, the Director of NTIS informed the Office of Export Administration that a new subscription order for microfiche reports had been received from the International Center for Scientific and Technical Information in Moscow, and asked for guidance [3]. The Assistant General Counsel for Science and Technology in the Commerce Department, in a memorandum dated February 12, concluded that "...in the light of President Carter's restrictions on export licenses for high technology to the USSR, NTIS as a matter of policy can be directed to suspend its sales to USSR organizations here and abroad" [4]. His opinion makes it clear that this is a policy option of the Commerce Department and not required by the President's memorandum. On February 20, armed with this legal opinion, Assistant Secretary of Commerce Jordan Baruch wrote to Melvin Day, the Director of NTIS that: "I have decided as a matter of policy to direct NTIS to suspend all sales of materials to the USSR" [5].

Other restrictions imposed at a result of the Soviet intervention in Afghanistan have since been lifted, as has the embargo on the sale of oil and gas pipeline equipment imposed in 1978 as a result of human rights violations in the Soviet Union. Moreover, under Section 6 of the Export Administration Act of 1979, controls maintained for foreign policy purposes require annual extension. Such extensions are reported in the Commerce Department's Annual Foreign Policy Report to the Congress. We have thus far been unable to determine whether this particular directive falls under that provision, but it is not included in the 1988 Report.

In short, the Carter "executive order," which may no longer be in force, did not even indirectly apply NTIS. An eight year old Commerce Department policy on NTIS subscription sales to the Soviets has no bearing on library access.

References:

1. The KGB and the Library Target 1960 - Present, Intelligence Division, FBI Headquarters, 1 January 1988.

2. Memorandum in two parts dated January 8 and 9, 1980, from President Jimmy Carter to the Secretary of Commerce, captioned Policy on Technology Transfers to the USSR.

3. Memorandum dated 25 January 1980 from Melvin Day, director of the National Technical Information Service to Kent Knowles, director of the Office of Export Administration, captioned Sale of NTIS Reports to USSR.

4. Memorandum dated 12 February 1980 from Robert Ellert, Commerce Department Assistant General Counsel for Science and Technology, to Homer Moyer, Jr., Commerce Department General Counsel, captioned Sale of NTIS Reports to USSR.

5. Memorandum dated 20 February 1980 from Jordan Baruch, Assistant Secretary of Commerce for Productivity, Technology and Innovation, captioned Sale of NTIS Reports to USSR.

January 25, 1980

MEMORANDUM FOR: Kent N. Knowles
Director, Office of Export Administration

THRU: Francis W. Wolek
Deputy Assistant Secretary for Science and Technology

SUBJECT: Sale of NTIS Reports to USSR

NTIS currently sells approximately $70,000 per year of technical reports to various Soviet organizations including the Library of USSR Embassy in Washington, the USSR Mission to the UN in New York, and the import department of a Moscow publisher, International Books. In addition to the information normally purchased by these Soviet institutions, we have recently received a new $28,000 subscription order for technical reports in microfiche form (SRIM) from the International Center for Scientific and Technical Information in Moscow. This order is for all new reports in the following subject categories: Electrotechnology; Computers, Control & Information Theory; Detection & Countermeasures; Military Sciences; Missile Technology; Navigation, Guidance & Control; Global Navigation Systems; Optics & Lasers; Marine Engineering; Composite Materials; Fire Control & Bombing Systems; Jet & Gas Turbine Engines; Solid Propellant Rocket Motors; and others. We are currently holding this new order.

These sales obviously represent significant transfer of U.S. technology to the Soviets. I am concerned whether the continuation of these sales is appropriate in the light of the President's restrictions on export licenses of high technology items to the Soviet Union.

As you know, NTIS technical information is openly published material which is exported under a general export license which does not require special review by the Office of Export Administration.

I would like your advice on whether all of these Soviet orders should continue to be routinely processed, whether the new subscription order should be processed, or whether some other action is appropriate.

Joseph F. Caponio
for Melvin S. Day
Director

PFUrbach/nd/1-25-80 cc: CF, ⑤, RF

	ORIGINATOR					
OFFICE		Ofc/Dir	Director			
SURNAME		Urbach	Day JC			
DATE			1/25/80			

FORM NTIS-162 (10-73)
USCOMM-DC 14466-P73

U.S. DEPARTMENT OF COMMERCE
NATIONAL TECHNICAL INFORMATION SERVICE

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

February 12, 1980

MEMORANDUM FOR: Homer E. Moyer, Jr.
General Counsel

FROM: Robert B. Ellert
Assistant General Counsel for
Science and Technology

SUBJECT: Sale of NTIS Reports to USSR

This is in response to your request for a legal opinion whether in the light of President Carter's restrictions on export licenses for high technology to the USSR (Tab A), NTIS as a matter of policy can be directed to suspend its sales to USSR organizations here and abroad.

Background

NTIS currently sells approximately $70,000 per year of technical reports to various Soviet organizations including the Library of USSR Embassy in Washington, the USSR Mission to the UN in New York, and the import department of a Moscow publisher, International Books. In addition to the information normally purchased by these Soviet institutions, NTIS has recently received a new $28,000 subscription order for technical reports in microfiche form (SRIM) from the International Center for Scientific and Technical Information in Moscow. This order is for all new reports in the following subject categories: Electrotechnology; Computers, Control & Information Theory; Detection & Countermeasures; Military Sciences; Missle Technology; Navigation, Guidance & Control; Global Navigation Systems; Optics & Lasers; Marine Engineering; Composite Materials; Fire Control & Bombing Systems; Jet & Gas Turbine Engines; Solid Propellant Rocket Motors; and others. At present these documents would be exported from the U.S. under a general export license and would not require special review by the Office of Export Administration.

NTIS Authority

The pertinent provisions of Title 15, U.S. Code are as follows:

> §1152. The Secretary of Commerce (hereinafter referred to as the "Secretary") is directed to establish and maintain within the Department of Commerce a clearinghouse for the collection and dissemination of scientific, technical, and engineering information, and to this end to take such steps as he may deem necessary and *desirable* --
>
> * * *
>
> (b) To make such information available to industry and business, to State and local governments, to other agencies of the Federal Government, and to the general public....(Underscoring supplied.)
>
> * * *
>
> §1153. The Secretary is authorized to make, amend, and rescind such orders, rules, and regulations as he may deem necessary to carry out the provisions of this chapter....

Discussion

The National Technical Information Service (NTIS) conducts its activities, *inter alia*, under authority of the Secretary pursuant to 15 U.S.C. 1151 *et seq.*, including the provisions quoted above. Other than being directed to establish and maintain an organization to collect and disseminate scientific, technical, and engineering information, the Secretary, in carrying out 15 U.S.C. 1151 *et seq.*, is "to take such steps as he may deem necessary and desirable" to make information available to named sectors of the domestic economy and to the general public. 15 U.S.C. 1152. Under the quoted language of 15 U.S.C. 1152 the Secretary is authorized to suspend all NTIS sales to the USSR, it entities, or agents on the basis that such sales are no longer desirable as they would be contrary to the spirit of President Carter's memoranda attached as Tab A.

The Secretary has delegated to the Assistant Secretary for Science and Technology the functions of exercising "policy direction and general supervision over the...National Technical

Information Service...." DOO 10-1 of April 9, 1976, §4.01. The term "policy direction" clearly includes the Secretary's authority, under 15 U.S.C. 1152, to determine whether it is "necessary and desirable" to provide information gathered under 15 U.S.C. 1151 et seq. to the USSR, it entities or agents. Accordingly, the Assistant Secretary is authorized under DOO 10-1 to determine that it is no longer desirable to sell NTIS publications to the USSR, its entities and agents, for the reasons stated above, and to order the Director, NTIS, under 15 U.S.C. 1153, to suspend such sales. As such a determination in this case may have foreign policy implications, it is recommended that, before its implementation, it be informally coordinated with the Department of State.

Conclusion

It is therefore concluded that the Assistant Secretary has authority to determine, in the light of directives of President Carter (Tab A), and other relevant foreign policy considerations, that it is no longer desirable to sell NTIS publications to the USSR, its entities and agents, and to issue an appropriate instruction to the Director, NTIS. Attached at Tab B is a draft memorandum for that purpose.

Attachments